88-1164

Supreme Court, U.S.
FILED
DEC 27 1988
JOSEPH F. SPANIOL, JR.
CLERK

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1988

SPECTRON BROADCASTING CORP.
PETITIONERS,

v.

FEDERAL COMMUNICATIONS COMMISSION,
RESPONDENT.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Myles V. Lynk, III, Esq.
1775 Pennsylvania Ave., N.W
Washington, D.C. 20006
202-862-1047

SUPPLEMENTARY APPENDIX

APPENDIX A

Before the

Federal Communications Commission FCC 86D-13

Washington, D.C. 20554

In re Applications of	)	
	)	
JARAD BROADCASTING	)	
COMPANY, INC.	)	MM DOCKET NO. 84-301
Garden City, New York	)	File No. BPH-830325AC
	)	
SPECTRON BROADCASTING	)	
CORPORATION	)	MM DOCKET NO. 84-303
Garden City, New York	)	File No. BPH-830516AK
	)	
GARDEN CITY	)	
BROADCASTING, INC.	)	MM DOCKET NO. 84-304
Garden City, New York	)	File No. BPH-830713AQ
	)	
WESTPLEX BROADCASTING	)	
COMPANY	)	MM DOCKET NO. 84-305
Garden City, New York	)	File No. BPH-830714AE
	)	

NORTH SHORE	)	
BROADCASTING	)	MM DOCKET NO. 84-306
Garden City, New York	)	File No. BPH-830714AF
	)	
DECEMBER VENTURES,	)	
INC.	)	MM DOCKET NO. 84-307
Garden City, New York	)	File No. BPH-830714AG
	)	
WINK RADIO, INC.	)	MM DOCKET NO. 84-308
Garden City, New York	)	File No. BPH-830714AH
	)	
FONIC BROADCASTING CO.	)	MM DOCKET NO. 84-309
Garden City, New York	)	File No. BPH-830714AI
	)	
MID-ISLAND	)	
BROADCASTING, INC.	)	MM DOCKET NO. 84-310
Garden City, New York	)	File No. BPH-830714AK
	)	
McCOMAS BROADCASTING	)	
CORPORATION	)	MM DOCKET NO. 84-312
Garden City, New York	)	File No. BPH-830714BF
For Construction Permit	)	
for a New FM Station	)	

Appearances

Lewis J. Paper and Claudia Ribet on behalf of Jarad Broadcasting Company, Inc.; Reed Miller, Marcia Cranberg and Robert Alan Garrett on behalf of Spectron Broadcasting Corporation; Dennis J. Kelley, Alfred C. Cordon and John Jacob, Jr. on behalf of Garden City Broadcasting, Inc.; Howard Liberman, Nora E. Garrote and Ann Sullivan on behalf of Westplex Broadcasting Company; Alese Rubinroit and Jessel Rothman on behalf of North Shore Broadcasting; Steve Levy and John E. Hoover on behalf of December Ventures, Inc.; William R. Richardson, Jr., Steven A. Weiswasser and Kevin E. Smith on behalf of WINK Radio, Inc.; Philip E. Mamos and George Mamos on behalf of Fonic Broadcasting Co.; Harry F. Cole and Shelley Sadowsky on behalf of Mid-Island Broadcasting, Inc.; Heidi P. Sanchez and Irving Gastfreund on behalf of McComas

Broadcasting Corporation; and Norman Goldstein, Hintson Richardson and Jerry Hermele on behalf of Mass Media Bureau, Federal Communications Commission.

INITIAL DECISION OF ADMINISTRATIVE LAW JUDGE JOHN M. FRYSIAK

Issued: February 24, 1986

Released: March 4, 1986

Preliminary Statement

1. This proceeding involves the competing applications of Jarad Broadcasting Company, Inc. (Jarad), Spectron Broadcasting Corporation (Spectron), Garden City Broadcasting, Inc. (GCB), Westplex Broadcasting Company (Westplex), North Shore Broadcasting (North Shore), December Ventures, Inc. (December Ventures), WINK Radio, Inc. (WINK), Fonic Broadcasting Co. (Fonic), Mid-Island Broadcasting, Inc. (Mid-Island), and McComas Broadcasting Corporation (McComas) for authority to construct an FM broadcast station at Garden City, New Yorl. These ten applications, along with two others since dismissed, 1/ were designated for comparative hearing on

the standard comparative issue in a Hearing Designated Order released April 11, 1984 (Mimeo No. 3445). The Designation Order also indicated that the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, would be considered under the standard comparative issue for the purpose of determining whether a comparative preference would accrue to any of the applicants.

2. By Memorandum Opinion and Order, FCC 84M-2853 (released June 25, 1984), the following issue was added against Spectron:

> To determine with respect to Spectron ... whether good cause exists for locating the main studio outside the principal community to be served and, if so, whether it would be consistent with the public interest.

1/ The applications of Women's Long Island Radio and Hempstead Broadcasting Corporation were dismissed for failure to prosecute (Tr. 192; 1109).

3. A prehearing conference was held on June 11, 1984. A second prehearing conference was held on October 16, 1984. Hearing sessions were held on October 22-26, October 29-31, November 2, November 5-9, November 13, December 19, 1984, and January 25, 1985. The record in this proceeding was closed on January 15, 1985. Proposed Findings were filed on April 22, 1985 and Replies thereto were filed on May 20, 1985.2/

2/ By Motions filed May 23, 1985 and May 28, 1985 respectively, December Ventures and Spectron sought to have stricken the appendices to Jarad's Proposed Findings. Jarad explains that the appendices are only offered in opposition to WINK's request for official notice of certain documents. In light of this explanation December Ventures' and Spectron's motions ARE DISMISSED as moot.

By Motion filed June 3, 1985, Jarad seeks to have stricken from the record Spectron's amendment reflecting its Amended Certificate of Incorporation filed January 30, 1985. Spectron's directors and

Findings of Fact

Main Studio Issue

4. Spectron has proposed to locate its main studio at 175 Fulton Avenue, Hempstead, New York, a location which has

---

2/stockholders authorized amending its Certificate of Incorporation before the "B" cut-off date. This fact was easily discoverable and the belated filing of the Amended Certificate of Incorporation with the New York Secretary of State has not prejudiced any party herein. Jarad's Motion IS DENIED.

By Motions filed June 20, 1985 and June 24, 1985 respectively, December Ventures and Jarad oppose the receipt of WINK's Supplement to its Reply Findings. The movants are correct in asserting that WINK failed to comply with Rule 1.45(c) in not seeking leave to file. December Ventures' and Jarad's Motions ARE GRANTED and WINK's Supplement to its Reply Findings IS DISMISSED as an unauthorized filing.

By Motion filed June 4, 1985, Westplex seeks to strike certain portions of and the appendices to WINK's Reply Findings, to wit: a draft rebuttal engineering exhibit, Appendices A and B and a Rand McNally map of

been the site of the studio and offices of Station WLIR for the past 16 years (Spectron Ex. 6). The WLIR studio and offices are

---

2/New York City. For reasons cited in the motion Westplex's Motion IS GRANTED.

By Motion to Strike filed June 5, 1985, North Shore Broadcasting seeks to have stricken an attachment to McComas' Reply Findings, to wit: the birth certificate of James Patrick McComas. McComas offered in evidence the birth certificate during the hearing. It was rejected on the grounds that there was no sponsoring witness. In its Reply McComas attempts to circumvent this ruling by requesting official notice of the birth certificate. North Shore's Motion IS GRANTED.

By Motion filed May 20, 1985, Spectron seeks to have stricken Fonic's Proposed Findings of Fact as being filed out of time, 9 days late. In opposition counsel for Fonic alleges that the Proposed Findings were completed on the due date but were held back to accommodate a principal's viewing. Fonic then mailed the Proposed Findings 4 days late. It appears that during the 4 day period Fonic's counsel did not receive findings from 7 of the 9 other applicants. It appears that the parties have not been overly prejudiced by Fonic's untimely filing and its Proposed Findings will be accepted. Spectron's motion IS DENIED. See Horizon Community Broadcasters, Ltd., FCC 85R-100, released December 11, 1985.

located in Hempstead pursuant to an express grant of waiver of the studio location rule by the FCC (Spectron Ex. 6, p. 1). Spectron proposed initially to locate the station studio in Hempstead in order to implement the transition of the station's operations from the interim studio at that location to a permanent location after a grant of its application (Tr. 261).

5. Hempstead is a town in Long Island comprised of several villages. Garden City and Hempstead are villages within the town of Hempstead. The incorporated villages of Garden City and Hempstead are adjoining communities with the business centers of each separated by approximately 4 miles. 175 Fulton Street, the present address of studio Station WLIR, is about 1/5 mile over the Garden City line, and less than 2 miles from the Garden City business center (Spectron Ex. 6).

6. Residents of Garden City have had

and continue to have a variety of options for each access to the existing studio site. At least five different bus routes run between the Garden City and Hempstead business centers. There is frequent daily bus service between the two communities, with one bus stop located about 100 feet from the existing studio site. There is also hourly train service between Garden City and Hempstead. Three of the four avenues surrounding the existing studio site are major thoroughfares. Driving time between the Garden City business center and the existing studio site is approximately five minutes. (Id.)

7. Hempstead residents and businesses have available to them the full complement of the basic civic services and facilities, such as fire and police protection, electrical and water supplies, snow clearance services, and road upkeep - all of which tend to assure that the existing

studio in Hempstead is accessible to Garden City residents and can physically operate without interruption. (Id.)

8. In support of its request for a waiver of the studio location rule, Spectron also submitted a letter dated February 6, 1978 from John R. Reiger, President of the former licensee of WLIR, to the FCC. The letter contained Reiger's request for a waiver to relocate his main studio from the Garden City Hotel in Garden City to the present location proposed by Spectron because the Garden City Hotel facilities were in a delapidated condition and that no other suitable facilities in Garden City were available. (Id.) However, the old Garden City Hotel has been replaced by a new modern hotel last year (Tr. 243-250).

Comparative Coverage

9. Nine of the ten remaining applicants in this proceeding (hereafter

referred to as the "nine applicants") propose the same facilities as those authorized to former Station WLIR-FM, Garden City, New York 3/ (Joint Rebuttal Ex., para. 3; Tr. 2950, 2957). The tenth applicant, WINK, also proposed the same facilities as those authorized to WLIR-FM but will orient its directional antenna at 180° true, instead of 90° true (WINK Ex. 1A, para. 3; Tr. 2464). As a result of this different antenna orientation, WINK's 1 mV/m contour will cover portions of Brooklyn and Manhattan that the other nine applicants will not cover. However, WINK will not cover small portions of the Bronx,

---

3/ Former Station WLIR-FM, whose license renewal application was denied by the Commission, is presently operating pursuant to special temporary authority granted by the Commission with facilities of 600 watts effective radiated power in a nondirectional mode. The station's construction permit, BPH-811204AF, granted June 10, 1982, authorizes operation at 1 Kilowatt with a directional antenna. The nine applicants all propose operation with these latter facilities (Official Notice Taken).

Westchester and Nassau Counties, New York, which will be covered by the other nine applicants (WINK Ex. 1A, Figure 1).

10. The areas and populations within the 1 mV/m contour proposed by the nine applicants and WINK are as follows:

Applicant	Area (sq. mi.) 4/	Population 4/
Nine applicants	459.97	5,350,585
WINK	464.67	6,523,797

(WINK Ex. 1A, para. 10).

4/ The Mass Media Bureau disagrees with the nine applicants' assertion that WINK's "raw" area and population advantage is substantially ameliorated by the existence of interference from one co-channel and two second-adjacent channel FM stations. See Joint Rebuttal Ex., at Table 1. This claimed intereference from stations currently short-spaced to WLIR-FM purportedly reduces the actual service areas of both the nine applicants' proposal and WINK, leaving WINK with a much smaller area and population advantage. As the Bureau stated at Tr. 2953, however, the nine applicants' analysis of interference was improperly conducted under Section 73.509 of the Commission's Rules because that section applies only to noncommercial FM stations. The instant proceeding involves a commercial FM station. Therefore, the interference analysis is irrelevant and WINK's above listed areas and population figures constitute the applicable basis for comparison.

11. The areas within both the nine applicants' and Wink's proposed 1 mV/m contours presently receive service from 18 FM stations and 5 AM stations (Joint Rebuttal Ex., paras. 12-13; Supplement to Wink Ex. 1A, paras. 3-4; Tr. 3014).

Standard Comparative Issue

12. Jarad Broadcasting Company, Inc. Jarad is a New York corporation. Mr. Ronald J. Morey is Jarad's sole stockholder, director and officer (Jarad Ex. 1 at 1).

13. Mr. Morey proposed to work full-time at the station (at least 40 hours per week) as the station's general manager. In that capacity, he would exercise complete control over all aspects of station management, including but not limited to programming, finances, hiring and firing, marketing and sales (Jarad Ex. 1, pp. 4-5).

14. Mr. Morey is an American Indian (Jarad Ex. 1, pp. 3-4; See Jarad Ex. 1 at Supplement; Tr. 97-98, 142-44, 153-56, 189).

Mr. Morey grew up in Brantford, Ontario - the town named for his ancestor Indian Chief Joseph Brant (Jarad Ex. 1, p. 1). Mr. Morey testified that his father told him about his Indian heritage (Tr. 144). Mr. Morey explained that his family originated from the Sixth Nation's Reserve. He stated that neither he nor his father have registered on the reserve since they do not live there and since registration was necessary only if you wanted to participate in the activities on the reserve (Tr. 158). Mr. Morey has always held himself out and had been regarded as an Indian (Tr. 158). Mr. Morey testified that he is recognized in both his professional and residential communities as an Indian (Tr. 153-56). A 1980 magazine article contained a profile of Morey's professional career and described him as a Mohawk Indian. The article was based on an interview with Morey who told the reporter about his racial heritage (Tr. 98, 189).

15. Mr. Morey lived on Wood Acres Rood

in Brookville, New York. He has resided at this address since 1977 (Jarad Ex. 1, pp. 1, 5). Mr. Morey's residence is located within the 1 mV/m contour of the proposed service area and approximately 7 miles from Garden City (Jarad Ex. 1, p. 5; Jarad Ex. 2). He is a member of the Brookville Tax Payers Association, and, for the last several years, has also chaired committees to raise funds for the Friends Academy in Locust Valley, New York where his son attends school (Jarad Ex. 1, p. 5; Tr. 134-42).

16. Mr. Morey has been involved with broadcasting since 1964. He worked as a radio announced until 1974 at CKOC, Hamilton, Ontario (1971-1972). He served also as an assistant director of programming (Jarad Ex. 1, pp. 1-2).

17. Mr. Morey has been doing "voice overs" as a free-lance announcer full-time since 1975. To accomplish this he enters into a contract with an advertising agency

for each commercial on which he works. He has no input into the content of a commercial or whether it is used by a broadcast station (Tr. 91-96, 188-89).

18. Jarad does not have any other media interests. Neither Mr. Morey nor his wife has any interest in any medium of mass communications (Jarad Ex. 1, at 7).

19. Jarad proposed to utilize the same facilities at North Shore Towers in Garden City that is currently used by WLIR-FM for its transmitter. Jarad will have access to and propose the same auxiliary standby power that is currently available to WLIR-FM. In addition, Jarad will install an auxiliary standby generator at its studio in Garden City to protect from any outages there (Jarad Ex. 1, p. 7).

20. Spectron Broadcasting Corporation. Spectron was organized as a 200 share corporation under the laws of the State of New York on February 8, 1983 (Spectron Ex. 1, p. 1; Ex. 14). Subsequently by corporate

resolution adopted March 18, 1983, Spectron's directors approved that two classes of stock be issued; that voting stock be issued to Angela V. Shaw and Thomas Morrison and all other shareholders receive non-voting stock (Spectron Ex. 13, p. 5, Tr. 401-04).5/

21. On the "B" cut-off date, December 9, 1983, Spectron's amended application showed that Ms. Shaw (Spectron's president) held 100% of the voting stock which represent 46.7% of the equity.6/ The "B" cut-off amendment stated that Spectron's other five stockholders held only non-voting stock. As of the "B" cut-off date, Spectron's application reflected that Ms.

5/ This change was reported by amendment filed May 23, 1984, but, the certificate of incorporation was not amended until January 10, 1985.

6/ Thomas Morrison, who formerly held voting stock in Spectron, assigned and transferred his rights in this stock to Angela Shaw prior to the "B" cut-off date (Spectron Ex. 16, p. 1).

Shaw did not own any non-voting stock (Jarad Ex. 6; Tr. 427-29).

22. By amendment filed May 23, 1984, Spectron reported an error in Table 1 of its application and corrected it to reflect that the total number of shares of issued and outstanding non-voting stock is 95 and that the percentages as held by the non-voting stockholders is as follows: Angela Shaw - 52%, Roland Davis - 23%; Briding Newell - 16%; LuNell Anderson - 2%; James M. Shuart - 2%; Frances Hooks - 5%.

23. At the hearing Spectron's Exhibit 1 was consistent with the May 23, 1984 amendment that 95 shares of non-voting stock were issued and that Shaw held 52% of those non-voting shares but indicated further that Ms. Shaw owned 40 shares of voting stock (Spectron Ex. 1; Tr. 337, 349).

24. Cross-examination of Spectron's witnesses highlighted discrepancies found between Spectron's hearing exhibits and the Spectron application regarding stock

ownership. Upon redirect examination, Angela Shaw corrected Spectron's Exhibit 1 to reflect that Spectron has issued and outstanding 31 shares of voting stock and 64 shares of non-voting stock (Spectron's Ex. 1 as corrected in Tr. 3185-86, 3188).

25. The record now reflects that Angela Shaw owns 31 shares, or 100% of the issued and outstanding voting stock of Spectron (Spectron Ex. 1, p. 1; Tr. 3186), and that she owns 18 shares of the issued and outstanding non-voting stock of Spectron (Id.) The other owners of Spectron's non-voting stock are:7/

7/ It is argued that Spectron did not show that it had the authority to issue non-voting stock. However, Spectron did file a Certificate of Amendment, January 10, 1985 (Official Notice Taken). This fact was reported to the parties during the hearing (Tr. 3190-91). The Certificate indicates that the amendment was authorized by the Board and the shareholders at the March 18, 1983 meeting of stockholders and directors. The late filing of the Certificate of Amendment is of no consequence since the intention of the stockholders to reclassify stock was clearly expressed on March 18, 1983.

Names	Shares of Non-voting Stock
Roland Davis	22
Briding Newell	15
Frances Hooks	5
James M. shuart	2
LuNell Anderson	2

(Spectron Ex. 1, p. 1)

26. In addition, Marina Wolkonsky has an option to purchase up to 10 shares of the non-voting stock of the Spectron company. Marina Wolkonsky also has a right of first refusal to purchase up to 51 shares of non-voting stock which may be periodically issued by Spectron as funds are needed by the company in the reasonable judgement of the board of directors. Marina Wolkonsky holds the option and the right of first refusal as a result of an assignment of those rights from Francesco Galesi 8/

8/ Mr. Galesi is a financial backer of Spectron as a result of an agreement entered into with Spectron on or about May 23, 1983. Pursuant to the agreement, Mr. Galesi acquired an option to purchase 10 shares of Spectron stock and a right of first refusal to purchase up to 51 additional shares of Spectron stock. Competing applicants argue that the reference in the agreement is to voting stock, since non-voting stock is not

(Spectron Ex. 1, p. 1; Jarad Ex. 8, pp. 7-8; Spectron Ex. 16; Tr. 462-63, 557). Marina Wolkonsky does not own any shares of Spectron stock (Spectronc Ex. 1, p. 1).

27. Angela Shaw is the president and director of Spectron (Spectron Ex. 1, p. 1). Briding Newell is the secretary, treasurer and director of Spectron (Id.) Roland Dvis is the third director of Spectron (Id.) Spectron has no other offers or directors (Id.)

28. Angela Shaw, Bridíng Newell, LuNell Anderson, Frances Hooks and Roland

---

8/mentioned and since Spectron was unauthorized to issue non-voting stock. However, the intent of the parties was to make available to Mr. Galesi only non-voting stock. Spectron's directors and stockholders approved a resolution to reclassify its original 200 shares common stock into 40 shares of voting and 160 shares of non-voting on the same date the agreement was signed. Thus the reference in the agreement has to be to non-voting stock. Additionally, the draft agreement referred to non-voting shares and mentioned Spectron's intention to reclassify its capital into voting and non-voting shares (Jarad Ex. 13).

Davis are Blacks. James Shuart and Marina Wolkonsky are Caucasians (Spectron Ex. 1 p. 2). In the event of a grant to Spectron, it is proposed that Angela Shaw will devote full-time (at least 40 hours per week) as general manager and president (Spectron Ex. 2, p. 9). She presently resides in Roslyn, New York which is within the 70 dBu contour of the proposed station (Spectron Ex. 2, p. 1; Westplex Ex. 6). Ms. Shaw is a law school graduate (Spectron Ex. 2, pp. 1-2) and has taught as an adjunct professor at Adelphi University since 1980 (Spectron Ex. 2, p. 8). Ms. Shaw is also a former Deputy County Attorney of Nassau County. (Id.) Ms. Shaw has worked on the Shirley Chisolm campaign for the New York State Assembly (Spectron Ex. 2, p. 2; Tr. 379-80) and on the Abby Boklan campaign for Nassau County District Court Judge (Spectron Ex. 2, p. 2; Tr. 380-82). She is a member of the NAACP (Spectron Ex. 2, p. 2) and was a founder of

the 100 Black Women of Long Island organization in 1981 and is one of the board members (Spectron Ex. 2, p. 2; Tr. 382-84). Ms. Shaw has spoken on New Frontiers for Black Women before sorority and church organizations as well as civic organizations (Spectron Ex. 2, p. 3; Tr. 385-87). She is also a member of the Roslyn-Glen Cove Chapter of the League of Women Voters and has participated in its meetings (Spectron Ex. 2, p. 9; Tr. 392-93). During the summer of 1968 she participated in the Westinghouse Broadcasting Company's Student Intern Program at all-news Radio Station WINS in New York City (Spectron Ex. 2, p. 3). Following her graduation from Harvard Law School, she began permanent employment at the F.C.C. as a staff attorney in the Cable Television Bureau. Her duties included conducting legal research, examining formal filings and preparing appropriate papers recommending disposition (Spectron Ex. 2, p.

5). She was promoted to Attorney-Advisor in the Tariff Proceedings Division of the Common Carrier Bureau in the spring, 1976. (Id. at 6) Ms. Shaw became the legal assistant to an F.C.C. Commissioner in 1976.9/

29. Roland H. Davis will serve on three policy committees: The Editorial Policy Committee, the Community Affairs Committee and The Programming Committee (Spectron Ex. 6, p. 6). He will devote from 10 to 20 hours each week to the proposed station (Tr. 319-20). He is a resident of Hempstead, New York which is within the 70 dBu contour of the proposed station (Spectron Ex. 3, p. 1, Westplex Ex. 6). Since 1979, Mr. Davis has served as the coordinator of Community Development at

---

9/ Although Ms. Davis's FCC employment was received for background purposes, case precedent dictates that this experience be given decisional weight. See Para. No. 169, infra.

Hofstra University in Hempstead, New York (Spectron Ex. 3, p. 1). Other than supervision of his administrative assistant, Mr. Davis does not exercise any supervisory functions with respect to Hofstra University (Tr. 310). Mr. Davis is also Chairman of the Board of Directors of Guardian Bank, N.A., formerly Van Gaurd Bank, the first Black bank in Long Island, and has held this position since 1975 (Spectron Ex. 3, p. 1). He is also a New York State Certified and Licensed Social Worker and is a Licensed Real Estate Broker. (Id. at 3) Mr. Davis' present community activities consist of service as President of the Association of Minority Enterprises of New York State; President of 100 Black Men of Nassau-Suffolk Inc.; a Director of the Chamber of Commerce in Hempstead; and a Director of the Health and Welfare Council of Nassau County, Inc. (Spectron Ex. 3, p. 5). He has also been a Director of the United Way of Long Island

since 1982; a life member of the Hempstead Branch of the NAACP since 1975 and a member of the Edges Group, Inc. (Id.) Mr. Davis has an 8% stock interest in a minority-owned corporation headquartered in Hempstead called the Minority Business Review, Inc. (Spectron Ex. 1, p. 2 and Spectron Ex. 3, p. 6). The corporation publishes a monthly journal focusing on minority-related business issues (Spectron Ex. 3, p. 6). Hofstra University of which Mr. Davis is coordinator for community development is the licensee of WRHU-FM a non-profit educational station (Spectron Ex. 2, p. 6). Station WRHU is a part-time student run facility (Tr. 316). Mr. Davis has no other interest in any medium of mass communications (Spectron Ex. 3, p. 6).

30. Briding Newell is proposed to serve on Spectron's three policy committees: The Editorial Policy Committee, The Community Affairs Committee, and The

Programming Committee (Spectron Ex. 4, pp. 6-7). She will devote approximately 10 hours per week. (Id.) Ms. Newell resides in Roosevelt, New York (Spectron Ex. 4, p. 1) which is within the 70 dBu contour of the proposed station (Westplex Ex. 6). Ms. Newell is the Executive Assistant to the Town of Hempstead Office of the Presiding Supervisor (Spectron Ex. 4, pp. 1-2). Ms. Newell has served in a variety of capacities on numerous civic organizations and continues to be active in numerous civic endeavors (Spectron Ex. 4, Tr. 216-21, 223, 225-31, 236-37).

31. James M. Shuart is president of Hofstra University which is the licensee of WRHU-FM, a non-profit educational station located in Hempstead, New York (Spectron Ex. 5). He is proposed to serve on the station's Editorial Policy Committee, Programming Committee and Community Affairs Committee (Spectron Ex. 2, p. 9). No time

commitment was specified.

32. Marina Wolkonsky is the wife of Francesco Galesi and the successor of Galesi's rights in his financing agreement with Spectron (Spectron Ex. 16; Tr. 472). Galesi owns approximately 20% of U.S.C.I., a five channel direct broadcasting satellite company which serves the northeastern United States (Tr. 503-06).

33. Neither Briding Newell, James Shuart, Frances Hooks nor LuNell Anderson has any interest in any other medium of mass communications (Spectron Ex. 1, p. 2; Spectron Exs. 4, 5 & 9). Benjamin L. Hooks, the spouse of Frances Hooks holds 1/6th of 1% of the non-voting common stock of United States Satellite Broadcasting Company, Inc., a DBS permittee (Spectron Ex. 8).

34. Spectron intends to provide auxiliary power at both the studio and transmitter sites (Spectron Ex. 10).

35. Garden City Broadcasting, Inc.

GCB is a New York corporation authorized to issue 200 shares of no par common stock of which 100 shares have been issued and are outstanding (GCB Ex. 1, p. 1).

36. The officers, directors and stockholders of GCB are as follows:

Names	Position	Percentage of Voting Stock	
John Joseph Sutter	Chairman of the Board, Director	1%	
John Betaudier	President/ Director	53%	10/
Yvonne Betaudier	Vice President/ Director	53%	10/
Phyllis Bernstein	Vice President	30%	
Betty Sutter	Treasurer	14%	
Edwin A. Bernstein	Secretary	2%	

The Bernstein's are husband and wife, the Sutters are husband and wife and the Betaudier's are husband and wife.

37. GCB holds no interest in any medium of mass communications (GCB Ex. 1, p. 2).

10/ Mr. and Mrs. Betaudier own their stock jointly.

38. Among the stockholders of GCB only Edwin Bernstein and Phyllis Bernstein have any ownership interests in other media outlets. Mr. and Mrs. Bernstein own approximately 20% of the common stock of Soundcasters, Inc. and approximately 1,000 shares of the preferred stock of Soundcasters, Inc. (Tr. 1016). Two of the Bernstein's children, James and Kathy Bernstein also own a total of 10% of the common stock of Soundcasters, Inc. (GCB Ex. 2, p. 5). Soundcasters, Inc. is the owner of a majority of the stock of Pathfinder Communications Corporation, licensee of AM station WBZA, Glenn Falls, New York and FM station WNIQ-FM, Hudson Falls, New York (GCB Ex. 2, p. 5). Both Mr. Bernstein (GCB Ex. 2, p. 5) and Mrs. Bernstein (GCB Ex. 3, p.

11/ The Hearing Designation Order, at para. 33, recognized these commitments and specified conditions required the divestiture by Mr. and Mrs. Bernstein of these interests in the event of a grant to GCB.

2) have committed to divest their interests in WBZA and WNIQ-FM in the event the GCB application is granted.11/ James Bernstein is 24 years old and Kathy Bernstein is 22 years old (Tr. 938). Both of them have their own bank accounts, and are conducting their business affairs separately from Edwin and Phyllis Bernstein. (Id.) None of the other stockholders have any itterests in any other medium of mass communications.

39. John G. Betaudier is the President of GCB and is proposed to be the General Manager committed to work full-time (GCB Ex. 4, pp. 2-3). He will move to Garden City upon grant of the application. (Id.) Mr. Betaudier is a Black, born in Trinidad (GCB Ex. 9) and became a naturalized U.S. Citizen in 1964 (GCB Ex. 4, p. 1). His broadcasting career began in 1951 and he worked as staff announcer until 1959. (Id.) In 1967 he began working for WKNY(AM), Kingston, New York and became a program director there in

1969 till 1979. In 1979 Mr. Betaudier worked at WPIC(AM) in Sharon, Pennsylvania. In February, 1980, Mr. Betaudier joined stations WFGL/WFMP at Fitchburg, Massachusetts and served there until May 1980. (Id.) Presently he works as a field underwriter for Mutual Life Insurance Company of New York. (Id.)

40. Yvonne C. Betaudier is the Vice President of GCB and is proposed to be the Vice President for Station Affairs working full-time (GCB Ex. 5, p. 2). She is a Black, and a naturalized American Citizen. She has been a nurse since 1964. She intends to move with her husband to Garden City in the event of a grant (Id.)

41. Phyllis Bernstein is proposed to work full-time as the station's News Director (GCB Ex. 3). She resides with her husband in East Rockaway, New York (GCB Exs. 1; 2, p. 1) which is within the 60 dBu contour of the proposed station (GCB Ex. 3,

p. 1). At present Mrs. Bernstein is a free-lance writer, but will terminate this activity upon grant of a license (GCB Ex. 3, p. 1).

42. Betty F. Sutter is proposed to work full-time as the station's Comptroller and Business Manager. She will handle the station's financial affairs, oversee all office staff and be responsible for the station's logs. She will also assist Yvonne Betaudier with the station's activities in community affairs (GCB Ex. 6, pp. 1-2, Tr. 762, 957). At present she is a co-owner and manager of an office building, an activity she will terminate upon grant of a license. (Id.) She resides with her husband in Malverne, New York which is within the 70 dBu contour of the proposed station. (Id.) Mrs. Sutter has been active in various civic organizations and has participated in various charitable drives. (Id.)

43. Edwin A. Bernstein proposes to

serve GCB's proposed FM station as its Sales Manager on a full-time basis, 40 hours per week. To meet these duties, he would leave the practice of law in which he is currently engaged (GCB Ex. 2, p. 1).

44. Mr. Bernstein's residence (East Rockaway, New York) and law practice (in Rockville Centre, New York) are in the 60 dBu contour of the proposed station (GCB Ex. 2, p. 5). Mr. Bernstein is a member of the Nassau County Bar Association. He has been active in Lawrence, New York as a fund raiser for United Appeals (GCB Ex. 2, p. 4).

45. During his career, Mr. Bernstein was associated for 25 years with a broadcast group known as "Regional Broadcasters," which comprised different broadcast corporations. This group encompassed the following stations:

Stations	City	Year Acquired
WMGW(AM)/ WZPR(FM)	Meadville, Pennsylvania	1957
WPIC(AM)/ WYFM(FM)	Sharon, Pennsylvani	1959
WGRD(AM)/ WGRD(FM)	Grand Rapids, Michigan	1960
WTRU(AM)	Muskegon, Michigan	1960
WKNY(AM)	Kingston, New York	1963
WOLF(AM)	Syracuse, New York	1969
WAAL(FM)	Binghamton, New York	1975
WCNF(FM)	Whitehall, Michigan	1979

46. Starting in 1957, Mr. Bernstein served each of the corporations which were the licensees of the above stations owned by the owners of the Regional Group as Vice-President, Secretary or Treasurer. He served under the president of the group, W. H. Rich. Mr. Bernstein was responsible for legal and financial matters. In Mr. Rich's absence, he served as General Manager. Due to illness Mr. Rich retired in 1966 and Mr. Bernstein assumed the title "General Manager." During 1966 Mr. Bernstein also served as General Manager of WKNY (GCB Ex. 2, pp. 2-3).

47. Mr. Bernstein continued to serve Regional in this capacity until his retirement from the firm in July, 1980 (GCB Ex. 2, p. 3). During his career he had provided active consulting services on broadcast station acquisition to stations in Chester, Pennsylvania and Clifton, Arizona (Tr. 1029), and did station consulting work during the years 1967-1969 (Tr. 1028).

48. Mr. Bernstein owned stock in the licensees of the above-noted stations either individually or with his wife. All of his stock interests, and all of his official positions with the above stations were relinquished by September, 1982 (GCB Ex. 2, p. 3; Tr. 1021). Mr. Bernstein continues to have consulting contracts with two stations; WAAL, Binghampton, New York, which expired at the end of 1984, and WOLF(AM), Syracuse, New York, under which he receives $2,250 per year until 1991 (GCB Ex. 2, p. 3). Mr. Bernstein's health plan is through his

consulting contract with WAAL (Tr. 1022). Mr. Bernstein has no other connection with station WAAL (Tr. 1022), and has not been required to give any advice whatsoever to station WOLF (Tr. 1030).

49. Mr. Bernstein is primarily responsible for the formation of GCB (E.g., Tr. 708, 719-20, 780, 914, 919, 1067, 1072-73). When Mr. Bernstein learned of the opportunity to file an application for the facilities of Station WLIR(FM), he perceived it as a chance to acquire a Garden City FM broadcasting station (Tr. 1035-36). He mentioned the possibility to Mrs. Bernstein (Tr. 852). He also contacted Mr. Betaudier and Mr. Sutter and suggested that their wives might be interested in becoming owners (Tr. 852, 708, 780). Mr. Bernstein referred to himself as "the common denominator between the Betaudiers and the Sutters" (Tr. 1072-73).

50. In undertaking the formation of

GCB, Mr. Bernstein was mindful of the Commission's policies governing comparative broadcast proceedings, including the Commission's policy of according "enhancement" based on the minority and female status of applicants (Tr. 905-07, 912, 916, 1042-46, 1066, 1073). Indeed, Mr. Bernstein specifically requested and received advice from counsel concerning the Commission's minority enhancement policies (Tr. 1040, 1046). Mr. Bernstein also knew that, because of those policies, his holding a majority stock interest in GCB would undermine the comparative strength of its application (Tr. 1073-74). Mr. Bernstein took all actions to pursue the Garden City application (Tr. 853, 856-57).

51. Mr. Bernstein called the first meeting of GCB's stockholders, which was held in July, 1983, shortly before the GCB application was filed with the Commission (Tr. 869). Prior to that meeting Mr.

Bernstein and Mr. Sutter had decided on how GCB's stock was to be distributed among the various principals (Tr. 783-84, 871-72, 1075).

52. GCB's initial capitalization amounted to $500.00, representing $5.00 for each of the 100 shares issued and outstanding. GCB's expenses to September 30, 1984, i.e., prior to the date of the commencement of the presentation of GCB's direct case in this proceeding, amounted to $10,448.92 (December Ventures Ex. 4). This shortfall was met by additional contributions purportedly made by Mrs. Bernstein and the Sutters (Tr. 883-84, 976-77). The Sutters contributed, as a gift to GCB, $4000 from their joint funds over and above the money they paid for their stock (Tr. 756, 800-02, 961, 976-77, 982, 1057; December Ventures Ex. 4). Similarly, Mrs. Bernstein contributed an additional $6,500 as a gift to GCB (Tr. 800-02, 884,

982, 1057; December Ventures Ex. 4). Mr. Bernstein has also contributed an additional $90 over and above the cost of his stock (December Ventures Ex. 4). The Betaudiers have paid in no other funds beyond their initial $265 investment (Tr. 712-13, 739-40, 795, 821, 1056). Although the Betaudiers have not made any contributions to capital of GCB above and beyond their stock purchase, it is their intention to do so when they are able (Tr. 712).

53. Mr. Bernstein was the "corporate representative" selected by GCB's counsel to attend each day of GCB's presentation at the hearing in this proceeding (Tr. 695, 1014, 1078-79). Mr. Bernstein also has been the GCB representative to review all pleadings and other filings on behalf of GCB (Tr. 743).

54. John J. Sutter is not proposed to be integrated into the management of the station.

55. GCB proposed to install and operate auxiliary power generator equipment at both its studio and transmitter sites (GCB Ex. 8).

56. Westplex Broadcasting Company. Westplex is a limited partnership organized under the limited partnership laws of the State of New York (Westplex Ex. 1, p. 1, Jarad Ex. 12). The partnership interests are distributed as follows:

Kenneth L. Herring	51% General Partner
Ramona Rivera	49% General Partner
George S. Kalman	Limited Partner
Austin Isherwood, Jr.	Limited Partner
Authur Pelaez	Limited Partner
William Day	Limited Partner
Lawrence DiGiacomo	Limited Partner

(Id.) As the sole general partners in Westplex, Mr. Herring and Ms. Rivera will control all the affairs of Westplex's proposed station. (Id.; Tr. 1669, 1704) Westplex's limited partners will be passive investors and will have no control over the management of Westplex's proposed station, except as otherwise required by the Uniform

Limited Partnership Act as adopted in the State of New York. (Id.; Jarad Ex. 12, p. 1)

57. Westplex does not hold any interest in any broadcast property or any other media of mass communications aside from the pending application in this proceeding. Kenneth Herring does not have any ownership interest in any media of mass communications (Westplex Ex. 4, p. 1). Mr. Herring is Program Director at station WTHE(AM), Mineola, Long Island, New York. (Id.) Mr. Herring will terminate his employment with WTHE if Westplex's application is granted. (Id.) Ramona Rivera is a staff news reporter for CBS News, a division of CBS, Inc. (Id.) She currently is assigned as an anchorwomen for RADIORADIO, the CBS young adult radio network. (Id.) Ms. Rivera will resign her position with CBS if Westplex's application is granted. (Id.; Tr. 1699) Through an

employee investment fund, Ms. Rivera has approximately four shares of CBS stock. (Id.; Tr. 1660) Ms. Rivera has no other ownership interest in any media of mass communications. (Id.)

58. As of the "B" cut-off date in this proceeding, George Kalman, a limited partner in Westplex, provided management consulting services to station WNVR(AM), Naugatuck, Connecticut (Westplex Ex. 4, p. 1). Mr. Kalman was also vice president and one of three directors of Naugatuck Valley Radio, Inc. (NVR), the licensee of station WNVR(AM).

59. Mr. Kalmwn owns 2.51 percent of the voting stock of NVR; Arthur Pelaez owns 4.94 percent of NVR's stock; and Austin Isherwood owns 2.51 percent of NVR's stock (Westplex Ex. 4, p. 1). Messrs. Kalman, Pelaez and Isherwood have an option to acquire, in the aggregate, up to 67 percent of the voting stock of NVR. (Id.) They have

held their present stock interests in NVR since November, 1983. (Id.)

60. Kenneth Herring, the 51% general partner, intends to devote full-time (at least 40 hours per week) to his duties as Programming Manager of the Garden City station (Westplex Ex. 2, p. 3; Jarad Ex. 2, p. 2). In that capacity, Mr. Herring will be responsible for determining the content and scheduling of all news and public affairs programming. (Id.) In addition, he will supervise all station personnel in the programming area and will be responsible for the hiring, firing, and training of programming personnel. (Id.) Mr. Herring will also share supervisory responsibilities with Ramona Rivera for the station's public service and community affairs activities. (Id.) Upon receipt of the construction permit for the Garden City station, Mr. Herring will resign his position as Program Director at station WTHE(AM). Mr. Herring

will only need to give two weeks notice of resignation before terminating his employment at WTHE (Tr. 1229). Mr. Herring is currently involved with several community, civic and charitable organizations within the service area of Westplex's proposed station. If Westplex's application is granted, Mr. Herring intends to continue his involvement in these activities to the extent such activities do not interfere with his primary commitment (at least 40 hours per week) to Westplex's proposed station (Westplex Ex. 2, p. 6).

61. Kenneth Herring is a Black American (Westplex Ex. 2, p. 1). Mr. Herring currently resides in Copiague, New York. (Id.) Mr. Herring lived within the station's proposed service area from 1962 to 1979. From 1973 to 1979, Mr. Herring resided at Richmond Hills, Queens, New York. (Id.) From 1966 to 1973, he lived at Hollis, Queens, New York. (Id.) From 1964

to 1965, he resided at Great Neck, Long Island, New York (Tr. 1116). From 1962 to 1964, Mr. Herring resided at Garden City Park, Long Island, New York. (Id.) From 1979 to the present, Mr. Herring has been employed at station WTHE(AM), Mineola, Long Island (Westplex Ex. 2, p. 2). Richmond Hills is within the proposed station's 60 dBu contour; Hollis is within the proposed station's 70 dBu contour; Great Neck and Garden City are within the proposed station's 70 dBu (Westplex Ex. 2, p. 1; Westplex Ex. 6, p. 2). Mineols is within the proposed station's 70 dBu contour (Westplex Ex. 2, p. 5; Westplex Ex. 6, p. 2). If Westplex's application is granted, Mr. Herring will relocate to Garden City, New York (Westplex Ex. 2, p. 1).

62. Mr. Herring is actively involved in several civic and community groups in the Nassau and Queens, New York area. From 1979 until the present, he has been an instructor

with the Nassau Youth Group, helping young people obtain jobs, and counseling and teaching them the danger of drugs and the importance of staying in school (Westplex Ex. 2, p. 3). He has been a member of the Neighborhood Club, Queens, since 1980. (Id.) The Neighborhood Club meets every week and is involved with keeping the neighborhood clean and taking care of the elderly (Westplex Ex. 2, pp. 3-4). He has been a member of the Coalition for Good Community, Mineola, since 1980 (Westplex Ex. 2, p. 4; Tr. 1254). The Coalition works to get senior citizens involved in different activities and helps them with their problems. (Id.) Since 1981, Mr. Herring has been a member of the Guiding Group in Queens, a group which meets approximately once a week and teaches public speaking skills to underprivileged youth. (Id.) Mr. Herring has also been a member of the Nassau Action Coalition since 1981. (Id.) His

activities at the Nassau Action Coalition include counseling citizens about eh need to register to vote, and the mailing of hundreds of letters encourating people to come to the center to obtain information concerning voting registration. (Id.) Since 1982, Mr. Herring has served as an instructor for the Time To Wake Up Group in Queens, a group which works with underprivileged youths. (Id.) Mr. Herring teaches typing skills to members of that group and demonstrates how to write commercial copy. (Id.) Nearly all of Queens iw tithin the proposed station's 60 dBu contour, and a large portion of Queens is within the proposed station's 70 dBu contour. (Id.; Westplex Ex. 6, p. 2)

63. Mr. Herring is presently a volunteer for the Red Cross in Mineola, New York and is involved in fund-raising activities and assists in programs for disasters in the community (Westplex Ex. 2,

p. 4). Mr. Herrint devotes approximately three to four hours per week to this activity. (Id.) He is a member of the Urban League in Hempstead, New York, where he engages in fund-raising activities and participates in efforts to obtain summer jobs for local youths (Westplex Ex. 2, p. 5). He devotes some of his weekends to this activity and has been a member for 12 to 13 years. (Id.) Mr. Herring is also a member of the Economic Opportunity Council in Hempstead, New York, an organization which provides employment contacts and referrals for Black and Hispanic members of the community. (Id.) Mr. Herring devotes 12 to 16 hours per week to this activity and has been a member for approximately three years. (Id.) Mineola and Hempstead are within the proposed station's 70 dBu contour. (Id.; Westplex Ex. 6, p. 2)

64. Mr. Herring is a member of Black Parents Organized for Leadership, a Mineola

organization which helps community parents find part-time employment and day care personnel (Westplex Ex. 2, p. 5). He devotes approximately seven to eight hours per week to this activity and has been a member for approximately three years. (Id.) Mr. Herring is a member of the Steering Committee of the NAACP, Nassau County Chapter, Hempstead, New York and participates in programs designed to inform youngsters about drugs and how to deal with drug-related problems. (Id.) Mr. Herring attends a meeting once a week and has been a member for the last 12 or 13 years. (Id.) He is a volunteer teacher at the Nassau County Correctional Institution, East Meadow, New York, and is involved in teaching remedial reading to inmates. (Id.) He devotes approximately eight hours per week to this activity and he has been a volunteer teaching for the past three years (Westplex Ex. 2, pp. 5-6). East Meadow is

within the proposed station's 60 dBu contour (Westplex Ex. 2, p. 6; Westplex Ex. 6, p. 2). Mr. Herring is a member of the Kiwanis Club, Nassau County Civil Association, and the Democratic Political Action Committee (Westplex Ex. 2, p. 6). The Nassau County Civic Association is located in Hempstead, New York; the Democratic Political Action Committee is located in Mineola, New York. (Id.)

65. Mr. Herring is currently Program Director at station WTHE(AM), Mineola, New York, a position he has held since 1979 (Westplex Ex. 2, p. 2). His duties include producing five-minute newscasts that are broadcast six times daily, producing talk shows and shows on sports, religion, and public affairs; selecting all music played on the air; writing and producing commercials and advertisements and promoting radio sales. (Id.) Mr. Herring has also conducted the community ascertainment

process on behalf of station WTHE(AM) since 1979 (Tr. 3801). As part of these ascertainment efforts, Mr. Herring meets with organizations in Mineola and the nearby communities and prepares short programs on the activities of these groups (Tr. 3086-3089). He then uses the knowledge obtained through the interviews with these groups to determine the needs, problems and concerns of the community. (Id.) Thus, although Mr. Herring moved out of the service area of Westplex's proposed station in 1979, he has worked full-time within the service area since that time and has maintained his knowledge of the problems, needs and interests of the service area through his participation in the ascertainment process. In addition Mr. Herring has participated and continues to participate on a volunteer basis in civic and community activities within the service area, even after he moved out of the service

area in 1979.

66. From 1973 until 1979, Mr. Herring worked for station WFME(FM), West Orange, New Jersey. (Id.) He was traffic director, announcer and assistant manager and in 1978 was promoted to Public Affairs Director. (Id.) From 1970 to 1973, Mr. Herring worked as a news reporter, writer and announcer for WNYC(AM), New York, New York. (Id.) His job included gathering and reporting city news, writing and editing the news, and moderating a talk show of interest to the community. (Id.) From 1965 to 1970, Mr. Herring was News Director for station WLIB AM/FM, New York, New York. (Id.) His responsibilities included coordinating, administering, and reporting of New York City news, and administering the news department operations and staff (including the hiring and firing of staff reporters, training the reporters, and maintaining equipment and ordering supplies) (Westplex Ex. 2, pp. 2-3). In

addition, the job involved on-the-scene coverage of major news stories and responsibility for editorials and commentaries broadcast by the station (Westplex Ex. 2, p. 3).

67. In 1964, Mr. Herring earned a Special Certificate in Radio Broadcasting from the New York School of Announcing and Speech (Westplex Ex. 2, p. 1). In 1970, Mr. Herring received a certificate from the School of Broadcasting and Announcing in New York. (Id.) He also received in 1972 a certificate in recognition of successful completion of a training program in radio, news writing and production from Central Satellite Radio. (Id.) Mr. Herring also earned an FCC Third Class license with a broadcast endorsement. (Id.)

68. Ramona Rivera, the 49% general partner, intends to devote full-time (at least 40 hours per week) to her duties as General Manager at the proposed station

(Westplex Ex. 3, p. 4; Jarad Ex. 12, p. 2). In that capacity, Ms. Rivera will be the station's chief operating officer, with overall supervision of all station departments and all facets of station management (Westplex Ex. 3, p. 6). She will also share supervisory responsibility with Mr. Herring for the station's public service and community affairs activities and will take an active role in the financial and personnel affairs of the station. (Id.) If Westplex's application is granted, Ms. Rivera will resign her current employment with CBS (Westplex Ex. 3, p. 4). Ms. Rivera's supervisor at CBS is aware of her participation in Westplex and has assured Ms. Rivera that she will have no problem terminating her contract with CBS if Westplex's application is granted (Tr. 1916, 1941).

69. Ramona Rivera is a female Hispanic of Puerto Rican descent (Westplex Ex. 3, p.

1). Her father was born in Puerto Rico. (Id.) Ms. Rivera was born in Queens, New York and lived there until she was two years old. (Id.) She then moved to the Bronx, New York and lived there until she was five or six, when she moved to Lindenhurst, Long Island, New York. (Id.) She lived in Lindenhurst until 1967, when she was twelve; she then moved to New Hyde Park, an incorporated village adjacent to Garden City, New York. (Id.) /She lived in New Hyde Park until June 1978. (Id.) In June 1978 she moved to 225 Central Park West (between 82nd and 83rd Streets), in New York City where she lived until September 27, 1984. (Id.) She now lives at 3 Stuyvesant Oval, New York City. (Id.) Nearly all of Queens and most of the Bronx are within the proposed station's 70 dBu contour. (Id.) New Hyde Park is within the proposed station's 70 dBu contour. (Id.; Westplex Ex. 6, p. 2) Lindenhurst is outside the primary

service area of Westplex's proposed station. If Westplex's application is granted, Ms. Rivera will relocate to Garden City, New York (Westplex Ex. 3, p. 1). Ms. Rivera is a founding member of the National Association of Hispanic Journalists (Westplex Ex. 5, p. 5). This organization was started in April, 1984 to foster and promote employment of Hispanics in the media. (Id.) Ms. Rivera was an honorary member of the Newswomen's Club of New York in 1979. (Id.)

70. Ms. Rivera has gained substantial broadcast experience during the last ten years. Since March 1982, Ms. Rivera has been employed by CBS News, a division of CBS, Inc., in her present position as staff news reporter (Westplex Ex. 3, p. 4). She currently is assigned as an anchorperson for RADIORADIO, the CBS young adult network. (Id.) Her day-to-day duties involve delivering hourly newscasts to approximately

145 affiliates nationwide. (Id.) During 1982, Ms. Rivera also worked as a free-lance correspondent for NBC News, New York, New York. (Id.; Tr. 1897) At NBC, Ms. Rivera anchored hourly newscasts at The Source, NBC's young adult radio network (Westplex Ex. 3, p. 4). From December 1977 to January 1982, Ms. Rivera worked for stations WNEW AM/FM, New York as a staff reporter (Westplex Ex. 3, p. 3). Her duties included street reporting of political, civic, consumer and disaster news, in both the Metropolitan New York and the Long Island areas. (Id.) Included in the series which she produced and reported on was a series on toxic waste dumping areas on Long Island and the resulting threats to water supplies there. (Id.) While working full-time for WNEW, Ms. Rivera also free-lanced for the RKO Radio Network in New York during 1981. (Id.) At RKO, she anchored hourly newscasts for the young adult network and reported on

national and international news. (Id.) During the same time period, Ms. Rivera also free-lanced for WPIX-TV in New York City, where she worked as an on-the-air reporter for Action News and Independent Network News. (Id.) She covered general assignment stories for the 7:30 p.m. and 10:00 p.m. news shows. (Id.) From 1976 to 1977, while attending college, Ms. Rivera was employed at stations WGSM(AM) and WCTO-FM, Huntington, Long Island, where she worked weekends and part-time as a newscaster and reporter covering political and community events in Nassau and Suffolk counties (Westplex Ex. 3, p. 2). During the same time period in 1976, she also worked part-time for WPIX-TV in New York City as a desk assistant and news writer (Westplex Ex. 3, pp. 2-3). Upon completing her undergraduate degree, Ms. Rivera went to work full-time for WPIX-TV in 1977 (Westplex Ex. 3, p. 3). At WPIX, she was night

assignment editor, producer, and writer, and she refined her skills in video, film editing, producing, and writing. (Id.) While attending Nassau Community College in Garden City, Long Island, Ms. Rivera worked for station WHPC-FM, Garden City, New York, which is licensed to Nassau Community College, as well as station WBAU-FM, Garden City, New York, which shares the frequency with WHPC-FM and is licensed to Adelphi University (Westplex Ex. 3, p. 2). While attending New York University, she was program director of WNYU-FM, New York, the New York University Radio station. (Id.) Ms. Rivera has a Bachelor of Arts degree in Journalism and a Masters in Business Administration (Finance) from New York University (Westplex Ex. 3, p. 2).

71. Ramona Rivera has been the recipient of several professional awards (Westplex Ex. 3, p. 4). In 1976-1977, she received an Emmy award citation for her

reporting on the New York City blackout as production assistant for WPIX. (Id.) In 1978, Ms. Rivera was selected as a MacMillan Fellow for distinguished work in journalism in the New York City area. (Id.) In 1979, Ms. Rivera received the Newswomen's Club of New York Front Page Award for her reporting on a documentary on the decaying water tunnel system in the Metropolitan New York area. (Id.) In 1980, while working at WNEW, she received a Certificate of Appreciation from the American Women in Radio and Television Organization for her reporting of the New York City transit strike. (Id.) During 1982-83, while at CBS, Ms. Rivera received three "Women at Work" broadcast awards for several of her radio news stories (Westplex Ex. 3, p. 5). She was given these awards by the National Commission on Working Women for her work on such issues as child care and the portrayal of women in advertising. (Id.) In 1983 Ms. Rivera once

again received recognition from the Newswomen's Club of New York, when a program which she anchored, entitled "Help for Working Parents," was selected as Front Page Award winner for best radio news story. (Id.)

72. Westplex proposes to install and maintain auxiliary power facilities at both its studio and transmitter sites (Westplex Ex. 5).

73. North Shore Broadcasting. North Shore is a general partnership organized under the laws of the State of New York (North Shore Ex. 2, p. 2). The general partners and their ownership percentages are as follows:

Gerard T. Reilly	51.0%	General Partner
Joel Mahan	24.5%	General Partner
Leonard Yam	24.5%	General Partner (Id.)

74. North Shore does not hold any interest in any broadcast properties or any other media of mass communications. (Id.)

Gerard Reilly, 51% partner of North Shore and its president, is general sales manager of the low power television (LPTV) station licensed to Plainview, Long Island, New York (North Shore Ex. 3, p. 2). Mr. Reilly became general sales manager of the LPTV station in April, 1984. Mr. Reilly has not stated that he will terminate his employment at the LPTV station if North Shore's application in this proceeding is granted.

75. Gerard Reilly proposes to be the full-time General Manager of North Shore's station (North Shore Ex. 3, p. 2). Mr. Reilly will also advise the Community Affairs Committee, (Id.; Tr. 1518) and will also conduct sales efforts on behalf of the station (Tr. 1513). Mr. Reilly testified that he will hire a comptroller to oversee the financial matters of the station (Tr. 1516). Mr. Reilly also testified that Mr. Mahan and Mr. Yam are going to be the persons in charge of the station's community

affairs activities and will conduct the ascertainment process for the station (Tr. 1517).

76. Leonard Yam proposes to serve full-time as the Assistant General Manager (North Shore Ex. 4, p. 2). In his capacity as Assistant General Manager, he will "direct the production of all community affairs programming, serve as Chairman of the Community Relations Committee, direct the community ascertainment process and supervise and implement the station's programming and sales policies, as well as its promotional activities." (Id.) He also testified that he will be in charge of coordinating the staff to create public affairs programming at the proposed station (Tr. 2970-2971) and will schedule the programming directed towards meeting the ascertained needs of the community (Tr. 2982).

77. Mr. Yam plans to supervise and

implement the station promotional activities along with Mr. Mahan (Tr. 2972) and he will attempt to attend station promotions (Tr. 2973). Mr. Yam testified that he will supervise the bookkeeping at the proposed station and assist Mr. Reilly in handling the bookkeeping functions, the accounts payable and receivable, and the process of setting-up affidavits for certificates of compliance (Tr. 2968). Mr. Yam will also assist Mr. Reilly in the area of station's sales and will go out during his work week to see advertisers if necessary. (Id.)

78. Joel Mahan proposes to serve full-time as the Programming Manager of North Shore's proposed station (North Shore Ex. 5, p. 4). In that capacity, Mr. Mahan "will supervise the daily operation of the Program Department, coordinate functions of continuity, traffic, promotion and sales, direct the staff in the creation of programs to meet community needs, including

innovative programs and discussion programmms addressing community issues and needs and serve as Chairman of the Program Committee to assist in the procurement of programs from all sources, network, syndication and local organizations." (Id.) He will supervise the hiring of personnel in the Program Department (Tr. 1419) and will decide on the programming budget and have input in all the financial matters (Tr. 1419).

79. Gerard Reilly has not promised to terminate his current employment at the Plainview, Long Island, LPTV station, if North Shore's application is granted. Similarly, Mr. Yam and Mr. Mahan have not promised to terminate their current employment at Prudential-Bache and NBC, respectively, if North Shore's application is granted.

80. Mr. Mahan is a Black American (North Shore Ex. 6, p. 1). Mr. Yam is a

Chinese-American. (Id.) Gerard Reilly has lived in Commack, New York, since 1962 (Tr. 1502-1503; North Shore Ex. 3, p. 2). Commack is outside the 1 mV/m contour of North Shore's proposed station (Tr. 1502-1503). Leonard Yam resided in Westbury, New York, from 1970 through 1981 (North Shore Ex. 4, p. 2). Mr. Yam currently resides at Elmhurst, New York. (Id.) The record does not indicate how long Mr. Yam has resided in Elmhurst. North Shore has not established whether Westbury and Elmhurst are within the 1 mV/m contour of North Shore's proposed station. Joel Mahan currently resides in Jersey City, New Jersey (North Shore Ex. 5, p. 3). Jersey City is outside the 1 mV/m contour of North Shore's proposed station (Westplex Ex. 6, p. 2).

81. Gerard Reilly has been general sales manager of Plainview, Long Island, LPTV station since April, 1984 (Tr. 1505;

North Shore Ex. 3, p. 2). From August, 1983 to February, 1984, Mr. Reilly was employed at station WOXM, Chesapeake, Virginia, as an account executive in sales (North Shore Ex. 3, p. 2; Tr. 1510). From 1982 to 1984, Mr. Reilly was also employed part-time by Bogner Broadcasting to locate LPTV stations for Bogner Broadcasting and to negotiate their purchase and construction (North Shore Ex. 3, p. 2; Tr. 1508).

82. As part of his schooling, Leonard Yam held an internship at ABC Contemporary Radio Network from May to August 1981 (North Shore Ex. 4, p. 2; Tr. 2975). During his internship, Mr. Yam was a public relations assistant and his duty was to rewrite stories for announcers (Tr. 2975-2976). Mr. Yam also held a similar internship with WNBC radio in New York City (Tr. 2974). This internship lasted for three months and involved two or three days a week. (Id.) While at WNBC, Mr. Yam was involved in

rewriting news stories that came over the wire. (Id.) From January, 1980 to January, 1981, Mr. Yam worked in various capacities at WCWP-FM, a noncommercial station licensed to C.W. Post College, Greenvale, New York (North Shore Ex. 4A, p. 1). Mr. Yam worked in the news and sports departments, writing news and sports copy and reading the news over the air. (Id.; Tr. 2977) Mr. Yam devoted approximately four to five hours a week to news writing (Tr. 2978; North Shore Ex. 4A, p. 1). Mr. Yam has a B.A. in Communications from C.W. Post College (North Shore Ex. 4, p. 2).

83. Since September, 1984, Joel Mahan has been employed on a part-time basis at NBC, New York, as an Assistant to Sports Production (North Shore Ex. 5, p. 3; Tr. 1468). Mr. Mahan testified that he is a liaison between the technical and production teams that do field work at NBC (Tr. 1396, 1402). Mr. Mahan worked for Cablevision, a

local cable company in Woodbury, New York (North Shore Ex. 5, p. 3). Mr. Mahan indicated that, while at Cablevision, his job was to bring to the public's attention the activities of three non-profit organizations (North Shore Ex. 5A, pp. 2-3). Mr. Mahan was employed at Cablevision from January to May 1981 on a part-time basis while attending school (Tr. 1406). From September 1979 to May 1981, Mr. Mahan worked at WCWP-FM, a noncommercial station licensed to C.W. Post College, in various capacities (Tr. 1409; North Shore Ex. 5A, p. 2). Mr. Mahan spent approximately 15 hours per week at the college radio station (Tr. 1410). From May to September 1979, Mr. Mahan worked for FM station WWUU, Long Branch, New Jersey, where he wrote advertising and news copy, produced remotes, edited tape, coordinated interviews, assisted the technical staff, and monitored the technical board (North Shore Ex. 5A, p. 1).

84. North Shore proposes to install auxiliary power generating equipment at the studio and/or transmitter site (North Shore Ex. 1).

December Ventures, Inc.

85. Byron E. Lewis, is a Black male and is the 100-percent stockholder and President of December Ventures (December Ventures Ex. 1, p. 1). Mr. Lewis will devote 40 or more hours per week as the full-time General Manager of the proposed station. (Id.)

86. For the past 15 years (Tr. 2077) Mr. Lewis has been President, Chairman of the Board and 51 percent stockholder in Uniworld Group, Inc. (Uniworld) (December Ventures Ex. 1, p. 1), which has its offices at 1250 Broadway, Manhattan, New York (Tr. 2047). Uniworld allegedly is a company which provides "a range of marketing services, some of which are public

relations, public affairs, research, promotion and also advertising" (Tr. 1998). At times, Uniworld serves as a conventional advertising agency (Tr. 2002), working in "the Black and Hispanic market" (Tr. 1999). Uniworld placed $20 million in advertising in the last year (Tr. 2169).

87. Uniworld provides services for a number of clients, including Burger King restaurants (Tr. 2007). Burger King placed advertising in excess of $1 million in one campaign in 1984 through Uniworld. (Id.) Burger King hired Uniworld in order "to reach Black listeners" (Tr. 2008). In serving its clients such as Burger King, Uniworld determines the station or stations wit the "best reach against the particular group within the Black community (the client is) interested in reaching." (Id.) It then makes a comparative suggestion showing the different ratings of different stations, does other market research, and prepares a

report making a recommendation to the client as to on which stations to buy advertising, which the client approves or disapproves. Uniworld advises clients as to what media form best suits their needs (Tr. 2008-09).

88. Uniworld has purchased time on behalf of its clients on New York City radio stations WBLS, WWRL and WKTU, which serve the Black community (Tr. 2013-14), and "one or two" stations which serve the Hispanic community (Tr. 2023) It has also placed advertising in such New York City newspapers as the New York Amsterdam News, the Queens Voice, the New York Challenger, and the New York Times, which are all circulated in the New York metropolitan area, including Nassau County (Tr. 2015-16). Uniworld has purchased advertising space from outdoor advertising companies such as Foster and Kleiser, in Brooklyn, Queens and possibly in Nassau County (Tr. 2019). Uniworld has purchased advertising time on "most"

television stations in the New York area "at one time or another," including WCBS-TV, WNBC-TV, WABC-TV, WNEW-TV, WOR-TV and WPIX-TV (Tr. 2019-20).

89. Uniworld also has prepared advertising copy which was intended to be used in advertising by its clients. Those clients seek Uniworld's counsel on what the contents of that copy should be (Tr. 2022). Uniworld hires talent for commercials, and hires the production company to actually produce audio and video commercial material (Tr. 2039-40). Uniworld also prepares point of purchase displays on behalf of its clients (Tr. 2022).

90. Uniworld also works for clients "interested in the national Black and Hispanic communities" (Tr. 2024-25), and places advertising on such nationally circulated media as the Sheridan Radio Network, Ebony magazine, Essence magazine and Jet magazine, and television networks

(Tr. 2026).

91. Mr. Lewis, who now devotes at least 40 hours per week to Uniworld (Tr. 2055), proposes to reduce his time commitment to Uniworld to 20 hours per week. Mr. Lewis appointed, about one year ago, another individual (Herbert Kemp) to be President of Uniworld (December Ventures Ex. 1, p. 2; Tr. 2030). Prior to Mr. Kemp, Douglas Alligood was president for seven months (Tr. 2041), but Mr. Alligood was fired because he could not perform satisfactorily in the job (Tr. 2066).

92. Uniworld is owned as follows: Mr. Lewis owns 51 percent of the stock, and a limited partner in which Mason Starring of Stamford, Connecticut is the general partner owns the remaining 49 percent (Tr. 1997-98). Mr. Lewis does not believe he has any obligations to his minority shareholder in Uniworld (Tr. 2160). However, he would not turn Mr. Starring down if Mr. Starring

requested Mr. Lewis to return to Uniworld in the event that "things are going down financially" (Tr. 2164). The nature of conditions facing Uniworld might force Mr. Lewis to spend a lot more time at Uniworld than he might otherwise (Tr. 2161). Although Mr. Lewis had told the board of directors of Uniworld of his plans concerning the Garden City station (Tr. 2143), he only planned to tell in the future the Uniworld board that Uniworld would not do anybusiness with the proposed FM station (Tr. 2147). The record contains no evidence that either Mr. Lewis or the board of directors of Uniworld have taken any steps to insulate themselves from December Ventures' proposed station.

93. Mr. Lewis also devotes about 10 hours per week to another business venture of his, through December Ventures, to develop the Harlem district of Manhattan as a tourist and cultural center (Tr.

2096-2100).

94. Mr. Lewis has resided for over 40 years within the primary service area of December Ventures' proposed station. He has lived in the following communities during the following periods: Far Rockaway, Long Island (1936-1941); Jamaica, New York (1941-1957); Brooklyn, New York (1957-1958); and Mount Vernon, New York (1958-1968). These residences are within the predicted 1 mV/m contour of the station (December Ventures Ex. 1, p. 2; Ex. 1A; Tr. 2031-32). From April 1974 to the present time, Mr. Lewis has resided at 67 Park Terrace East, New York, New York. An engineering study was undertaken by Jules Cohen and Associates, P.C. to determine whether Mr. Lewis' present residence is located within the proposed primary service area of the station. The study concluded that a 60 dBu (1 mV/m) signal is received at his present residence (December Ventures Ex. 1A). Mr.

Lewis proposes to move to Garden City, New York, if December Ventures' application is granted (December Ventures Ex. 1, p. 2).

95. Mr. Lewis has participated extensively in civic activities within the proposed service area (December Ventures Ex. 1, p. 3; Tr. 1975, 2111, 1977, 2052).

96. Mr. Lewis has experience in the radio broadcasting field. He was the executive producer and creator of a syndicated radio program entitled, "Sounds of the City." The program was a Black-oriented radio serial that comprised daily 15-minute dramatic episodes running for 37 weeks (December Ventures Ex. 1, p. 4). Mr. Lewis had supervisory authority over studio production of the program (Tr. 2121-22). As executive producer, Mr. Lewis hired writers and line producers, arranged syndication, promoted the series and arranged for sponsorship. He also dealt with talent and approved the final program

product prior to end distribution (December Ventures Ex. 1, p. 4; Tr. 2153-54). He met with station managers, program directors, and presidents of licensees (Tr. 2070-71). He supervised most of the production work in radio station studios (Tr. 2154-55). Mr. Lewis was involved in the creation of another series for RCA Corporation and had the same type of involvement with this program series as he did with "Sounds of the City (Tr. 2124).

97. Neither December Ventures nor Byron E. Lewis (except for Uniworld) has any cognizable interest in any medium of mass communications (December Ventures Ex. 2).

98. December Ventures proposes to provide auxiliary power standby capability for its station (December Ventures Ex. 3).

99. WINK Radio, Inc. WINK is a corporation composed of two shareholders, Ronald E. Graiff and Winifred C. Graiff, who are husband and wife (WINK Exs. 1, 2). Mr.

Graiff is the company's President; Mrs. Graiff, its Secretary-Treasurer. (Id.) Each owns 50% of WINK's outstanding shares (WINK Ex. 1 at 8; Tr. 2583).

100. Mr. and Mrs. Graiff own jointly, as tenants by the entirety, 77 shares of the common stock of the American Broadcasting Companies, Inc. (WINK Ex. 1 at 9).

101. Under a profit-sharing plan established by Ronald Graiff's employer, LIN Broadcasting Corp. (LIN), Mr. Graiff owned 233 shares of common stock of LIN at the time of the filing of WINK's application for this station. Mr. Graiff had also been issued options to purchase less than 1T of LIN's common stock. As of June 30, 1984, LIN had issued a total of 21,025,080 shares of such stock. (Id.) On July 27, 1984, Mr. Graiff exercised certain of these option rights and purchased 36,111 shares of that stock. (Id.) On January 31, 1985, Mr. Graiff sold these 36,111 shares, as noted in

an amendment to WINK's application. Pursuant to paragraph 39 of the Hearing Designation order, Mr. Graiff has committed to resign from all his positions with LIN and each of its subsidiaries in the event that WINK's application is granted. (Id. at 10)

102. Both 50% shareholders of WINK have proposed to work full-time (at least 40 hours per week) in management positions at the station (WINK Ex. 1, at 8).

103. Ronald Graiff will serve as General Manager of the licensee (WINK Ex. 1 at 2, 8; Tr. 2580). Mr. Graiff's responsibility will include monitoring the station's ongoing financial performance; reviewing the performance of the General Sales Manager and his or her local sales staff and that of the outside national sales representative; supervising the work of the Chief Engineer in the areas of technical operation, equipment maintenance, and

apital expenditures; monitoring the station's commercial practices and the effectiveness of its program format; and developing long-range planning and operating strategies (WINK Ex. 1 at 8).

104. Winifred C. Graiff will serve as Station Manager of the licensee (WINK Ex. 2 at 4-5). Mrs. Graiff's primary responsibilities will include supervision of the News Director and Program Director with respect to news and public affairs programs (WINK Ex. 2 at 6; Tr. 2428). Mrs. Graiff will also serve as teh station's Editorial Director -- overseeing both editorial policy and equal access obligations (WINK Ex. 2 at 6-7). In addition, Mrs. Graiff will have primary responsibility for the station's personnel practices and implementation of WINK's equal employment opportunity policy and program. (Id. at 5-6) Mrs. Graiff will also serve as teh station's Director of Public Affairs. (Id. at 6) As Director of

Public Affairs, Mrs. Graiff will chair WINK's Community Advisory Board. (Id.; Tr. 2420) She will supervise a staff who will assist her in this fucntion (Tr. 2431-32). Mrs. Graiff will also produce and host one of WINK's weekly public affairs programs, a one-hour call-in dialog program featuring local community leaders (WINK Ex. 2 at 7; Tr. 2429-30).

105. Since 1973, Mr. and Mrs. Graiff have resided in Huntington Station, New York (WINK Ex. 1, p. 1; WINK Ex. 2, p. 1). Huntington Station is outside the 1 mV/m contour of WINK's proposed station (Tr. 2761, 2917). From late 1969 to October, 1971, Mr. Graiff resided in Bellerose, New York (WINK Ex. 1, p. 2). From October, 1971 to March, 1973 he resided in Francis Lewis Boulevard in Queens County. (Id.) Mrs. Graiff resided in Elmont, Nassau County, New York from 1948 to October, 1971 (WINK Ex. 2, p. 1). From October, 1971 to March, 1973,

Mrs. Graiff resided at Francis Lewis Boulevard in Queens County (WINK Ex. 2, p. 2). Nearly all of Queens is within the 1 mV/m contour of WINK's proposed station (WINK Ex. 1A, Figure 1). WINK has not indicated whether Bellerose and Elmont are within the 1 mV/m contour of WINK's proposed station. Mr. and Mrs. Graiff have promised to relocate to Garden City if WINK's application is granted (WINK Ex. 1, p. 2; WINK Ex. 2, p. 2).

106. Ronald Graiff does not claim any credit for participation in civic and community activities within the service area of WINK's proposed station. Mrs. Graiff has participated in the following civic and community activities:

> Member, Girl Scouts, Elmont, NY -- during childhood.
>
> Attending member, St. Boniface Roman Catholic Church, Elmont, NY -- childhood until 1971.
>
> Member, St. John's Chorus (charity concerts in Queens area) -- 1965 through 1969.

Member, Delta Sigma Chi (performed community service work in Queens County) -- volunteer teacher of Catechism to patients; length of volunteer work not specified (WINK Ex. 2, pp. 2-3).

107. Mrs. Graiff does not have any previous broadcast experience. From 1964 to 1968, Mr. Graiff worked in several capacities at noncommercial station WHR, licensed to Pennsylvania State University, State College, Pennsylvania (WINK Ex. 1, p. 4). He held the positions of on-air announcer, engineer, program director and general manager during various time periods (WINK Ex. 1, pp. 4-5). In 1967-68, while at college, Mr. Graiff was employed as a weekend announcer at station WRSC AM/FM, State College, Pennsylvania (WINK Ex. 1, p. 5). During the summer of 1965, Mr. Graiff was employed as an on-air announer at WTOA-FM, Trenton, New Jersey. (Id.) In the summer of 1966, he was employed by ABC, New York, New York, doing radio maintenance work at the ABC Radio Network and at WABC AM/FM.

(Id.) During the summer of 1967, Mr. Graiff was employed at WXYZ AM/FM, Detroit, Michigan with similar responsibilities. (Id.) From September, 1971 to May, 1975, Mr. Graiff was employed at ABC, New York, New York, as a radio frequency systems and allocation engineer (WINK Ex. 1, pp. 5-6). Since May, 1975, Mr. Graiff has been employed by LIN, first as director of engineering and since 1978 as Vice President-Engineering (WINK Ex. 1, p. 6). In his current position, Mr. Graiff supervises and reviews the substantive engineering work of the chief engineering at LIN's broadcast stations, ensures that each of these stations complies with the Commission's engineering rules, prepares appropriate applications for filing with the Commission and develops capital and operating budgets for LIN's stations (WINK Ex. 1, p. 7).

108. Wink proposes to install auxiliary

power generating equipment at the studio and/or transmitter site (Wink Ex. 1, pp. 10-12).

109. Fonic Broadcasting Company. Fonic is a general partnership. Its principals are as follows:

Christina Mamos 122-20 Ocean Promenade Belle Harbor, New York	52% partner
Teddy Savalas 7 Kingsley Road Huntington, New York	24% partner
Telly Savalas Hollywood, California (Fonic Exs. 1, 2 and 3).	24% partner

110. None of the principals of Fonic have any interests in any media of mass communications. (Id.)

111. Christina Mamos, a female, is proposed to be the General Manager of Fonic's proposed station. She will devote full-time, 40 hours per week, to this position. In this role, she proposes to oversee supervision of all facets of station management including the station manager and

epartment heads. She will be involved with overseeing community affairs and public service broadcasting as well as financial matters, including dealing with accountants and auditors (Fonic Ex. 1, pp. 2-3).

112. Ms. Mamos has lived at her present residence for the past six years, which is just within the 1 mV/m contour of Fonic's proposed station (Fonic Ex. 1, p. 1). She holds the educational degrees of B.A. from Deree-Pierce College, Athens, Greece and an M.A. in English from Hofstra University, Hempstead, New York (Fonic Ex. 1, pp. 1-2). She is 30 years old (Tr. 2209).

113. Ms. Mamos' broadcast experience commenced in 1979 when she worked as a radio host and announcer at WNYG(AM), Babylon, New York. She moved in 1980 to radio station WALK, Patchogue, New York, where she wrote and hosted a live radio show. In 1982, she moved to station WLIM, Patchogue, New York, here she now has an international show

(Fonic Ex. 1, p. 2). Ms. Mamos has had identical work and duties on these radio shows as her father, Teddy Savalas (Tr. 2237). At WLIM, the position is not full-time, and requires about 15 hours per week (Tr. 2236-37).

114. Ms. Mamos has been a member of the Long Island Cultural Society (also known as the Solone Society of Garden City), St. Paul's Greek Orthodox Church in Garden City and the Hofstra Association in Hempstead (Fonic Ex. 1, p. 2).

115. Teddy Savalas is proposed to be Fonic's station manager, devoting full-time, at least 40 hours per week. He proposes to work closely with the general manager, but concentrate on station operational matters including overseeing the programming, engineering, operations and sales and news/public affairs department (Fonic Ex. 2, p. 4).

116. Mr. Savalas lives in Huntington,

New York, which is in Suffolk County, outside the 1 mV/m contour of the proposed station (WINK Ex. 1A, p. 7). He has lived there since 1960 (Tr. 2230).

117. Mr. Savalas holds bachelor's and master's degrees from Hofstra University. He is a professional teacher, and has taught for 27 years on Long Island, in the Syosset and Hicksville districts (Fonic Ex. 2, p. 1). He attended the conventions of the National Education Association as a delegate. (Id.)

118. Mr. Savalas has been involved with radio since 1979, working with his daughter Christina Mamos, at stations WNYG, WALK and WLIM (Fonic Ex. 2, p. 4; Tr. 2237).

119. Telly Savalas is not proposed to be integrated into the management of Fonic's proposed station (Fonic Ex. 3).

120. Fonic proposes to install auxiliary power generating equipment at the stuio and/or transmitter site (Fonic Ex. 4).

121. Mid-Island Broadcasting, Inc.

Mid-Island is a corporation organized under the laws of the State of New York. The officers, directors and voting shareholders of Mid-Island are as follows:

Shareholder	Office/ Director	Shares	%
Paris B. Swoopes	President/ Director	1100	11
Lester Gaither	Vice President/ Director	1100	11
Kathleen S. Gayle	Vice President/ Director	1100	10
Ruby H. Jones	Vice President/ Director	1100	10
Freeman McNeil	Vice President/ Director	900	9
Robert S. Smith	Secretary/ Director	2000	20
James La Marca	Treasurer/ Director	2900	29

(Mid-Island Ex. 1; Tr. 2648).

122. A total of 10,000 shares of Mid-Island stock, at $10.00 per share, have been subscribed for by the above-named shareholders (Tr. 2648).

123. James La Marca is the founder, sole owner, Chairman, and President of La Marca Group, Inc., a media time-buying service (Mid-Island Ex. 8, Tr. 3235). La

Marca Group places advertising in various media of mass communications on behalf of its advertising clients, including "buying time on broadcast station" (Mid-Island Ex. 8; WINK Ex. 4; Tr. 2681-85, 3235-39, 3246). This constitutes 80% of La Marca Group's business (Tr. 3236-37). La Marca Group recommends to its clients stations on which they should place advertising (Tr. 3238-39). It also buys advertising in newspapers circulated within the service area of WLIR-FM, and on Madison Square Garden cable (Tr. 3246, 3247). Mr. La Marca will continue to maintain his ownership interest in and management position with La Marca Group (Tr. 3249-50; Mid-Island Answers to Westplex Interrogatories #11).

124. During the 18 months immediately prior to November 1984, La Marca Group placed 10% of its total advertising on broadcast stations in the New York City metropolitan area (WINK Ex. 4; Tr. 2685,

282-84). Much of this advertising was placed on broadcast stations that overlap Mid-Island's proposed service area (WINK Ex. 4; Tr. 2684-85, 3248, 3287).

125. Neither Mid-Island (Mid-Island Ex. 1) nor any other Mid-Island shareholder holds any interest in any medium of mass communications, except Robert Smith (Mid-Island Ex. 2, p. 3; Ex. 3, p. 3; Ex. 4, p. 3; Ex. 5, p. 4; Ex. 6, p. 3; Ex. 8, p. 3). Mr. Smith is Vice President, Director and 25% stockholder of Drum Communications, Inc., licensee of Radio Station WNWZ(AM), Highland Springs, Virginia. He has committed to divest himself entirely of his interest in Drum Communications, Inc. in the event Mid-Island's application is granted (Mid-Island Ex. 7, p. 3). Messrs. Smith and La Marca have unrecognizable interests in a number of applications for low power television stations currently pending before the Commission (Mid-Island Ex. 7, p. 3; Ex.

3, p. 3).

126. Mid-Island proposes to integrate each of its seven shareholders into full-time (40 hours per week) managerial positions at its proposed station.

127. Paris B. Swoopes. Mr. Swoopes has subscribed for 11% of the stock issued by Mid-Island (Mid-Island Ex. 1). Mr. Swoopes will serve full-time as the Station Vice President and Sales Manager (Mid-Island Ex. 2, p. 3). Mr. Swoopes is a Black male, born in Sheffield, Alabama. For the past 13 years, he has resided in Roosevelt, New York, which is located within the 1 mV/m contour of Mid-Island's proposed station (Mid-Island Ex. 2, p. 2).

128. Mr. Swoopes is currently president and sole proprietor of Paris Swoopes Laboratories, which performs diagnostic testing for doctors (Tr. 2292-93). Mr. Swoopes' participation in Paris Swoopes Laboratories is essential for continued

success of the business (Tr. 2299). Nevertheless, Mr. Swoopes will reduce his time commitment to Paris Swoopes Laboratories if Mid-Island's application is granted (Mid-Island Ex. 2, at 3). Mr. Swoopes currently works about 36 hours per week at Paris Swoopes Laboratories (Tr. 2294-95). Mr. Swoopes also currently works 30 hours per week as the Director of Clinical Laboratory Services at the A. Holly Patterson Home (Tr. 2296-97). Mr. Swoopes has said he will reduce this time commitment if Mid-Island's application is granted (Mid-Island Ex. 2, at 3). Mr. Swoopes has not yet decided if he would terminate his employment at Paris Swoopes Laboratories or at the A. Holly Patterson Home if Mid-Island's application were granted (Tr. 2402-03).

129. Mr. Swoopes' civic activities include regular weekly involvement as Chairperson of the Nassau County Commission

on Human Rights, a non-elected position which he has held with that county agency since 1980. He chairs meetings, establishes policy and acts as a spokesperson for the Commission on community issues within its purview. In the event Mid-Island's application is granted, he intends to maintain this position if time permits. He generally devotes approximately one hour per week to this involvement (Mid-Island Ex. 2, p. 3; Tr. 2310-11, 2409). Mr. Swoopes was a Director of the Uniondale, New York Chamber of Commerce for a two-year period which ended just prior to the hearing on November 1, 1984. He continues to be a member of that organization (Tr. 2311). In addition, Mr. Swoopes served as the President of the Hempstead, New York Rotary Club (1981-1982); and as President of the Grace Lutheran Church School, Malverne, New York (1980). He was also a member of the Parent Teacher League, Malverne, New York (1980)

Mid-Island Ex. 2, p. 3).

130. Mr. Lester Gaither has subscribed for 11% of the stock issued by Mid-Island (Mid-Island Ex. 1). He will serve full-time as Station Vice President and Operations Manager. In that capacity he will be responsible for scheduling all programs and commercials on a day-to-day basis (Mid-Island Ex. 3, pp. 2-3).

131. Mr. Gaither is a Black male, born in Winnsboro, South Carolina. He resides in Hempstead, New York, which borders Garden City. He has lived at his current address for the past five years (Mid-Island Ex. 3, p. 2; Tr. 2517). Mr. Gaither has been employed with the Roosevelt, New York Public School District for 22 years. At one time he served as its Coordinator of Social Work and Transportation. Currently, and for the last seven years, he has served as its Administrator. He intends to terminate his employment in the event Mid-Island's

application is granted (Mid-Island Ex. 3, p. 2). Mr. Gaither is a tenured employer with the School District. Under the terms of his employment contract, he may terminate his employment upon 30 days notice (Tr. 2498-99).

132. Mr. Gaither is a member of St. Joseph's Church located in Garden City. He has been active in the Bishop's Fund which raises money to be used by the Diocese for charitable purposes. He expects to maintain his activity in the event that Mid-Island's application is granted. Mr. Gaither is also affiliated with the NAACP and the Urban League, which have chapters in the Hempstead area. He participates in programs and activities sponsored by these organizations in the Hempstead area, many of which are related to youth and schools (Mid-Island Ex. 3, p. 2; Tr. 2496-97).

133. Mrs. Kathleen S. Gayle has subscribed for 10% of the stock issued by

Mid-Island (Mid-Island Ex. 1). Mrs. Gayle will serve full-time (40 hours per week) as the station's Vice President and Office Manager. In that capacity she will oversee the business functions of the station and report to the General Manager (Mid-Island Ex. 5, pp. 3-4).

134. Mrs. Gayle is a Black female, born in New York, New York. She is a long-time resident of Great Neck, New York, where she has been employed and has been active in civic activities for at least 20 years. Great Neck is within the service area of Mid-Island's proposed station. (Id. pp. 2-3)

135. Mrs. Gayle recently retired. She has an employment history in education and social work which includes the following positions: Family Social Worker, New York City Department of Social Services, (1948-54); Probation Officer (Spanish speaking), New York City Magistrate Court, (1955-56); Executive Director, United

Neighborhood Activity Plan, Great Neck, New York (1960-62); Teacher In Charge, Samuel Huntington Community Training Center, Jamaica, New York, (1964-65); Education Director, North Shore Community Arts Center, Great Neck, (1967); Teacher of emotionally disturbed children, Roslyn, New York Public schools, (1968-70), and in New York City public schools, (1973-83). (Id.)

136. Mrs. Gayle has had extensive civic involvement over the years: Executive Board, (1963-72) and Educational Chairman (1965-80), Great Neck-Manhasset-Port Washington-Roslyn, NY Chapter of the NAACP; community resource volunteer (currently) and member of Board of Directors (1963-65), Community Service Center, Manhasset, NY; Education Committee and Sunday School teacher, Great Neck Methodist Church (1959-76); Board of Directors, Great Neck Public Library (1971-76); charter member and co-chairman of B-Plan of Great Neck (Black

Parents Organized for Leadership and Action Now), a grassroots community organization to facilitate communications with the schools (1962-76); panelist on a 13-week public television station WNET program entitled "How Do Your Children Grow" (1970); educational consultant to P.O.S.O.C. (Parents Organized to Save Our Children), a grassroots community organization formed to explore fair educational practices for Black children (1964-68); Steering Committee and NAACP representative to Great Neck Economic Opportunities Council (1964-68); Executive Board, Great Neck Committee for Human Rights (1962-68); Executive Board of the Citizen's Advisory Committee for Nassau County Children's Shelter (1963-65) (Mid-Island Ex. 5, pp. 2-3).

137. Mrs. Gayle testified taht although she has not managed a company office, she has developed and used bookkeeping and recordkeeping skills during her employment

as the Executive Director of the United Neighborhood Activity Plan. Furthermore, as the Education Director of the Community Arts Center, she managed 90 volunteers. And, she was involved in the budgetary process each year that she was a member of the Board of Directors of the Great Neck Library (Tr. 2448, 2484-86).

138. Ruby H. Jones has subscribed for 10% of the stock issued by Mid-Island (Mid-Island Ex. 1). Mrs. Jones will serve full-time (40 hours per week) as the station's Vice President and Community Services Director. In that capacity, she will coordinate the station's public service functions including the ascertainment of the interests and needs of the local public, and the development of topics for programming to meet such needs and interests (Mid-Island Ex. 4, p. 3).

139. Mrs. Jones is a Black female, born in Raleigh, North Carolina. She has resided in Great Neck, New York for the past twenty-two years. Great Neck is within the 1 mV/m coverage area of Mid-Island's

present time. She was employed for thirty years in various teaching and social service positions in Brooklyn, Queens and Nassau County. (Id.)

141. Mrs. Jones has been a member of the Great Neck, New York Branch of the American Red Cross for the past four years. She has served as its treasurer since May, 1984 (Tr. 2550). She became a life member of the NAACP some 10 to 15 years ago, and has served on the Board of Directors of its Great Neck-Manhasset-Port Washington Chapter (Tr. 2550-51). She testified that she has always held an office in the chapter. Currently, she is the co-chairman of the membership committee, a position she has held for the past two years. She served as chairman of that committee for four years previously (Tr. 2576-78). Her past civic activities include: Girl Scout Troup Leader in Great Neck; Boy Scout Den Mother in Great Neck; Great Neck Adult Education Committee;

and participation in programs sponsored by the Urban League (Mid-Island Ex. 4, pp. 2-3).

142. Freeman McNeil, a 9% shareholder of Mid-Island, is proposed to be Sports Director at the station. Mr. McNeil is a professional football player with the New York Jets football team (Mid-Island Ex. 6; Tr. 3302). His current contrat runs at least until 1988 (Tr. 3302). If Mid-Island's application is granted, Mr. McNeil will retain his position as a professional football player (Tr. 2733-34). Mr. McNeil does not commit himself to devoting any specific amount of time to working at the station during the time of his football obligations (Mid-Island Ex. 6, at 2-3). The duration of the football season lasts from training in July through (possibly) the Super Bowl in January (Tr. 3304-05). Mr. McNeil will not spend 40 hours per week at the station during

ɔotball season (Tr. 2734-35). Nor will he "be at the station on a day-to-day basis" during football season (Mid-Island Ex. 6).

143. In his role as Sports Director, Mr. McNeil anticipates that he will be doing radio shows himself as an on-air performer rather than managing others (Tr. 3307-09, 3326, 3319, 3261-62, 2734).

144. Mr. McNeil is a Black male, born in Jackson, Mississippi. He resides in Dix Hills, New York, and plans to relocate to the service area of Mid-Island's proposed station in the event Mid-Island's application is granted (Mid-Island Ex. 6, p. 2).

145. Robert S. Smith has subscribed for 20% of the stock issued by Mid-Island (Mid-Island Ex. 1). Mr. Smith will serve full-time (at least 40 hours per week) as the station's Vice President and General Manager. He will be responsible for overall supervision of th station's operation in

programming, sales, engineering and business (Mid-Island Ex. 7, p. 3).

146. Mr. Smith currently resides at 75 Leonard Street, New York, New York. Because his residence is situated approximately 45 minutes from Garden City, he currently does not intend to move to Garden City unless it becomes necessary to do so to effectuate his full-time commitment to the station (Mid-Island Ex. 7, p. 2).

147. From 1952 until 1973, Mr. Smith was employed during various periods as Music Director of WNBC, Program Director of WINS, Program Director of WOR, and General Manager of WOR-AM-FM-TV (Mid-Island Ex. 7; Tr. 2692-93, 2705).

148. Mr. Smith currently spends approximately 30 hours per week as a consultant at La Marca Group (Tr. 2679). Mr. Smith's job is to find broadcast properties for La Marca Group to invest in (Tr. 2680-81, 3235-36, 3258-59). The

deleted facilities of WLIR-FM represented the kind of broadcast properties Mr. Smith was hired by Mr. La Marca to look for (Tr. 2680-81). Mr. Smith will terminate this work in the event Mid-Island's application is granted (Mid-Island Ex. 7, p. 2; Tr. 2680-81).

149. When the WLIR license became available, Mr. Smith and Mr. La Marca agreed to look for a group of shareholders who would help the application under FCC guidelines (Tr. 2593-94). In order to have a better chance of prevailing in a comparative hearing, Mr. Smith and Mr. La Marca decided that Mr. Smith would undertake the task of "assembling a minority group" to join with them in an application (Tr. 3260-61).

150. In particular, Mr. Smith and Mr. La Marca were looking for members of minority groups to hold a 51% interest in Mid-Island (Tr. 2594-96, 2600-01, 2621).

Mr. Smith and Mr. La Marca would have preferred to apply for the license themselves, but felt it was necessary to recruit minorities under current FCC policy in order to have any chance of being successful (Tr. 2593-96, 2603). Mr. Smith and Mr. La Marca had hoped initially to recruit minorities from Garden City if any were available (Tr. 2624). In addition to members of minority groups, Mr. Smith and Mr. La Marca were looking for women to enhance the application (Tr. 2611-12). They also sought as other participants those who would agree to work full-time at the station (Tr. 2627).

151. Mr. Smith advised those he was recruiting as to what would be beneficial to the application (Tr. 2565-66). Mr. Smith made it known to them that it would be advantageous to have members of minority groups holding a majority of the stock (Tr. 2277-78, 2347, 2375, 2376, 2421, 2514). Mr.

Smith also suggested to those he contacted that it might be helpful to the application if their wives were interested in joining also (Tr. 2611-12). That is how Ms. Jones and Ms. Gayle first became involved in the application (Tr. 2250-51).

152. Mr. Smith was the person who brought the group together (Tr. 2340, 2376). Mr. Smith was the one who first informed the minority participants that the facilities of WLIR were available (Tr. 2281). On behalf of himself and Mr. La Marca, Mr. Smith made all the initial contacts to interest the minority shareholders in the application (Tr. 2281). Mr. Smith first recruited Mr. Gaither (Tr. 2599-2600, 2506-07, 2510. He then recruited Mr. Swoopes, Mr. and Mrs. Gayle, and Mr. and Mrs. Jones (Tr. 2608-14). To allocate the remaining 9% of the shares, Mr. La Marca suggested that Mr. Smith contact Mr. McNeil, which he did (Tr. 2615-16). The contact was made through Mr.

cNeil's lawyer, who is also Mr. La Marca's lawyer (Tr. 3314).

153. Mr. Smith's civic involvement includes the following activities: New York Cancer Society Board of Directors and Education Committee (1969-75); Mayor's Committee of Film and TV, for which he worked to bring filming and production projects to New York City (1971-75); the Community Council of Greater New York Board of Directors (1973-75); New York Bicentennial Committee, Media and Advertising Committee (1974-76).

154. James La Marca has subscribed for 29% of the stock issued by Mid-Island (Mid-Island Ex. 1). Mr. La Marca will serve full-time (40 hours per week) as the station's Vice President and Advertising and Promotion Director. In that capacity, he will plan, supervise and execute the station's advertising and promotional efforts (Mid-Island Ex. 6, p. 3).

155. Mr. La Marca resides in New York City (Mid-Island Ex. 8, p. 2). He has been employed in broadcast advertising for twenty-five years and is currently Chairman, President and 100% stockholder of La Marca Group, Inc., a marketing a media service company which purchases time on broadcast stations for client advertisers and advertising agencies, and engages in market analysis, media research and promotional planning on behalf of clients (Mid-Island Ex. 8, p. 2; Tr. 3233, 3235). Mr. La Marca does not involve himself in the day-to-day operations of La Marca Group. His primary function is to maintain client contact (Tr. 3245). Should Mid-Island's application be granted, Mr. La Marca will reduce his time commitment to La Marca Group in order to effectuate his integration proposal (Mid-Island Ex. 8, p. 2). Mr. La Marca testified that he currently spends 30 to 40 hours per week at La Marca Group, 20 to 30

nours of which are devoted to La marca Group business, with the balance of time spent on other entrepreneurial activities (Tr. 3252). He testified that steps to reudce his timecommitment to La Marca Group have already been taken in that managers have ben running the cmopany on a day-to-day basis for some time. He also testified that he would surrender certain other, more speciulative, entrepreneurial activities if Mid-Island were granted the license, and that he could reduce his time to La Marca Group to twenty hours per week or perhaps slightly less (Tr. 3254).

156. For the past ten years Mr. La Marca has served as an adjunct professor at St. John's University which is located in Queens, New York and within the service area of Mid-Island's proposed station. He teaches communications-related courses, and intends to maintain this activity in the event Mid-Island's application is granted.

He testified that the is prepared to resign from this position if it interferes with his full-time commitment to Mid-Island's station (Mid-Island Ex. 8, p. 3; Tr. 3256-57).

157. Mid-Island proposes to install auxiliary power generating equipment at the studio and/or transmitter site (Mid Island Ex. ().

158. McComas Broadcasting Corporation. McComas is a corporation organized under the laws of the State of New York (McComas Ex. 1, p. 1).

159. James P. McComas Miro is McComas' sole officer and director. He has subscribed to one hundred percent (100%) of the equity of McComas. (Id.).

160. Mr. Miro was born in 1962 in Puerto Rick (McComas Ex. 2, p. 1). He resided in Puerto Rico until 1980. He first moved to Garden City in 1983 to attend Adelphi University in Garden City. (Id.) He resides in what is presumably a residence

hall on the campus of Adelphi University (McComas Application, Section 11). He previously attended High Point College in North Carolina (McComas Ex., p. 1).

161. Mr. Miro owns eight percent (8%) of the issued and outstanding stock of MCO Industries, Inc., which owns all of the issued and outstanding stock in Cavallaro Broadcasting Corporation, licensee of Station WOSO, San Juan, Puerto Rick (McComas Ex. 4, p. 1). According to the most recent ownership reports on file with the FCC for Cavallaro Broadcasting Corporation (dated October 25, 1979), 52% of the issued shares of stock of MCO Industries, Inc. are held by the parents of James Miro, and the remaining 49% of the shares are held equally by James Miro and his five siblings. Mr. Miro and his siblings received their stock as a gift from their parents.

162. McComas has represented that Mr. Miro will spend at least forty (40) hours

per week as General Manager of the proposed station (McComas Ex. 3, p. 1). However, Mr. Miro has not represented that he would terminate his studies in order to devote time to the proposed station.

163. Mr. Miro's only experience in connection with broadcasting wsa during the summer of 1983, when Mr. Miro oversaw the bookkeeping of Station WOSO, San Juan, Puerto Rico. (Id.) Other than Mr. Miro's brief bookeeeping experience, McComas has not provided any information to indicate that Mr. Miro has past broadcast experience.

164. McComas proposes to install auxiliary generators at the studio and transmitter sites (McComas Ex. 5).

Conclusions

Main Studio Issue

165. Spectron has proposed to locate its main studio in the Village of Hempstead which adjoins the community of license, the

Village of Garden City. Section 73.1125 of the Commission's Rules requires that main studios be located in the community of license, except when good cause exists for locating the main studio outside the principal community to be served and that to do so would eb consistent with operation of the station in the public interest. See Holt-Robinson of Texas, Inc., Mimeo No. 2919, released March 15, 1984; WAVY Television, Inc., Mimeo No. 1034, released November 28, 1984.

166. Spectron's proposed studio location is one which has been the site of the studio and offices of Station WLIR for the past 17 years. The former licensee of WLIT received a waiver of the studio location rule in 1978. The WILR studio is located about 1/5 mile over the Garden City line and less than 2 miles form the Garden City business center. Although now there may be a suitable site for a studio

available in Garden City, there is no indication that the residents of Garden City are presnetly inconvenienced or that the public interest is compromised by the studio's continued location in the village of Hempstead. The immediate use of the pre-existing studio in the instant case would result in an efficient and prompt commencement of service by the new, permanent licensee. Such a transition would permit the permanent licensee to devote its immediate attention and resources to programming development, employment of staff and other station matters without the need to udnergo all the expenses and attendant delays connected with the construction of a new studio. The commission has recognized in the past that there is good cause for location of a studio at a site outside the community of license when such a location can result in general economies to the licensee. See Cleveland Broadcasting, Inc.,

7 FCC 2d 680 (Rev. Ed. 1967); Richmond Newspapers, Inc., 20 FCC 185 (1955). Additionally, retaining the same studio would maintain the continuity of station-community relations established the past 17 years. Furthermore it has been the common practice in deleted facilities cases that the station continue to be operative with its pre-existing facilities. It would be an exercise of rudimentary fair play to allow the successor licenses herein the use of the same facilities which hve been suthorized for use by the former licensee. In light of the foregoing a waiver of the studio loation rule is warranted and the main studio issue is resolved in Spectron's favor, Spectron having demonstrated that the continued use of the pre-existing studio would be in the public interest.

Comparative Coverage Issue

167. Although WINK proposes to serve a

substantially larger population in the western portion of its service area, consisting of Manhattan and Brooklyn, New York, these uncommon areas already receive service form far more than five other radio stations. In light of this none of the applicants will receive a preference for its area and population proposals. See Hampshire County Broadcasting Co., Inc., 57 RR 3d 463 (Rev. Bd. 1984).

The Standard Comparative Issue

168. Jarad Broadcasting Co. Neither Jarad nor its sole principal, Ronald Morey ha any interest in any medium of mass communications. Mor. Morey's proposed full-time integration is enhanced by his status as an American Indian (see FCC Form 395-EEO, 70 FCC 2d 1466 (1979); Minority Ownership of Broadcast Facilities, 68 FCC 2d 979 (1979); Waters Broadcasting Corporation, 91 FCC 2d 1260 (1982), his residence in the

service area, his prior civic activities, and his prior broadcast experience. Jarad's application is also enhanced by its proposal to9 have auxiliary power at the transmitter site and at the studio.

169. Spectron Broadcasting Corporation. Neither Spectron nor its sole voting stockholder, Angela Shaw, holds any interest in any medium of mass communications.12/ Media interests of non-voting stockholders are generally not attributable for diversification purposes. See Multiple Ownership Rules, 55 RR 2d 1465, 1484 (1984). Ms. Shaw's full-time

---

12/ While Ms. Shaw is the President of ACT, which is the permittee of three low power television stations and has applications pending for others, Spectron represented prior to the "B" cut-off date in this proceeding that Ms. Shaw would divest herself of any interest in these facilities in the event of a grant of the Spectron application. Additionally, the HDO provides that a grant of construction permit to Spectron is conditioned upon Ms. Shaw's divesting herself of all interest in ACT.

integration is enhanced by her Black and female status. See Waters Broadcasting Corporation, supra. Her integration proposal is further enhanced by her past and future residence in the service area, her prior civic activities, and past broadcast experience as attorney for the Federal Communications Commission followed her graduation from law school (see Grand Broadcasting Co., 36 FCC 929, 933 (Rev. Bd. 1964)). Spectron's application is also enhanced by its proposal to have auxiliary power at both the studio and transmitter sites.

170. Garden City Broadcasting, Inc. GCB holds no interest in any medium of mass communications. Among the stockholders of GCB only Edwin Bernstein and Phyllis Bernstein have any media holdings. They own approximately 20% of the common stock of Soundcasters, Inc. and approximately 1,000 shares of the preferred stock of

Soundcasters, Inc. Both of them have committed to divest these interests in the event of a grant. As a matter of fact the HDO herein specifies conditions requiring such divestiture in the event of a grant to GCB. Two of Bernstein's children, James and Kathy Bernstein, also own a total of 10% of the common stock of Soundcasters. However since they reached majority and each is financially independent their interests are not attributed to Mr. and Mrs. Bernstein. Mr. Bernstein has had a consulting contract with Station WAAL, Binghamton, New York which expired at the end of 1984 and a consulting contract with WOLF, Syracuse, New York under which he receives $2,250 per year until 1991. Mr. Bernstein's health plan was carried by WAAL and he had no other connection with it and has not been required to give any advice to Station WOLF. Neither of these consulting interests are chargeable. Neither of the consulting

agreements constitute a significant managerial position. Pittsfield Community Television Association, 56 RR 2d 134 (Rev. Bd. 1983).

171. GCB has proposed all of its stockholders except John Joseph Sutter, a 1% stockholder, to be integrated into the management of its proposed station. John Beataudier is proposed as General Manager, Yvonne Betaudier as Vice President for Station Affairs, Phyllis Bernstein as News Director, Betty Sutter as Business Manager and Comptroller and Edwin Bernstein as Sales Manager.

172. GCB's opposing applicants argue that GCB's integration proposal should be discredited because on the one hand Mr. Betaudier, Mrs. Betaudier and Mrs. Sutter are not going to hold true managerial positions and that, on the other hand Mr. and Mrs. Betaudier, Mrs. Bernstein and Mrs. Sutter are not "actual and true owners."

The record, however, shows that GCB's ownership structure and its integration proposal are bona fide.

173. It is frankly admitted that Mr. Bernstein is thoroughly familiar with radio station management and F.C.C. rules and policies regarding the licensing of radio stations and taht having been made aware of the availability of the Garden City station initiated the formation of Garden City Broadcasting, Inc. Mr. Bernstein also frankly admitted that Garden City Broadcasting, Inc. was formulated in a way involving his wife and friends to give it the greatest possible chance to receive a grant. The record also shows that Mr. Bernstein has been active in pre-grant activities. But the record also shows that he acted in concert with the other stockholders and that all pre-grant actions taken were unanimously agreed to or ratified. Each stockholder has made a

capital contribution for stock received. The fact that Mrs. Sutter paid for her stock out of an account jointly held with her husband does not disprove her independence. As a matter of fact, Mr. Sutter is not proposed for management. Mrs. Bernstein had paid for her stock out of her own funds - an account that she had maintained for some time. The Betaudiers have not as yet contributed towards pre-grand expenses but their claim that they will do so when they are able is credible. They will be in complete control of the management of the station with their 53% ownership and there is no evidence that they will act as figureheads.

174. It is also established that five of the six GCB stockholders will work at the station in management jobs. Mr. Betaudier is slated as the general manager. He has extensive broadcast experience and will be paid a higher salary than the other

integrated principals. Yvonne Betaudier will supervise the production of all public affairs programming, including local public service announcements, and will work with public relations and community outreach efforts. Although Mrs. Betaudier may be inexperienced in the broadcast business there is no evidence that would belie the viability of her integration plan. Mrs. Sutter will have a staff working for her which will include a secretary, a copywriter and a traffic and continuity person. She will be responsible for the station's logs and oversee the maintenance of the office. The positions of News Director and Sales Manager have always been regarded as managerial.

175. GCB integration will receive 53% credit for minority status, 70.5% female credit, 46% for local residence and an additional 53% for future residence, and 28.5% credit for broadcast experience. GCB

is also credited with 16% civic participation for Betty Sutter and Edwin Bernstein. GCB's application also is credited with its proposal to provide emergency power generation equipment at both the studio and the transmitter site.

176. Westplex Broadcasting Company. Westplex is a limited partnership comprised of two general partners and five limited partners. The limited partnership agreement was finalized on October 9, 1984. At the "B" cut-off date in this proceeding Westplex partners operated under a draft Memorandum of Understanding which reflected in raw terms their understanding. By its terms the general partners have full control over all aspects of the partnership and will have full control over the construction and operation of the FM radio station. Also by its terms and limited partners are to be passive investors with no control over the partnership or the proposed FM radio station

(see Jarad Ex. 12). Additionally, the limited partners only are committed to pay for the bulk of the partnership expenses in prosecuting the application and the general partners will provide funds for the construction and operation of the station and will be fully liable for any expenses incurred thereby. (Id.)

177. Westplex does not have any attributable interest in any media of mass communications. Kenneth Herring is currently program director at Station WTHE(AM), Mineola, New York. Under the Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393 (1965) managerial positions of the principals of an applicant can be attributable media interests. Although Mr. Herring has made an unequivocal promise to terminate his employment with Station WTHE if Westplex's application is granted he did not do so as of the "B" cut-off date. Under applicable FCC

precedent, principals will be attributed all of the ownership interests which they have not proposed to divest prior to the "B" cut-off date. High Sierra Broadcasting, Inc., 55 RR 2d 627, 635 (Rev. Bd. 1983). However, inasmuch as radio Station WTHE and the proposed station at Garden City are to serve substantially the same area, there is little danger that Mr. Herring would keep his position at WTHE and thus the potential for any concentration of control is very small. Consequently, Mr. Herring's failure to divest prior to the "B" cut-off date only warrants a very slight demerit. Ms. Rivera is a staff news reporter for CBS News, currently employed as an anchorwomen for RADIORADIO. This position is non-managerial in nature. Ms. Rivera also owns four shares of CBS stock pursuant to an employee investment fund. This ownership interest is extremely small and no diversification demerit will be assessed. Pittsfield

Community Television Association, 56 RR 2d 134, 136 (Rev. Bd. 1983).

178. The interests of Westplex's limited partners in Station WNVR(AM), Naugatuck, Connecticut are not cognizable under the diversification criterion of the standard comparative issue because by the terms of the limited partnership agreement the limited partners are not integrated principals, are participating in Westplex merely as passive investors and will have no control over the day-to-day affairs of the proposed station. The limited partnership agreement in essence is within the Commission's guidelines set forth in Ownership Attribution, 58 RR 2d 604 (1985), and gives adequate assurance that the limited partners are insulated from participating in the operations of the partnership.

179. Westplex's proposal for the full-time integration of its two general

partners is entitled to 100% minority credit because Mr. Herring is a Black American and Ms. Rivera is Hispanic. Westplex is also credited with 49% female ownership and participation, 100% past and future residence of its integrated principals in the service area, 51% credit for Mr. Herring's civic participation and 100% credit for extensive past broadcast experience. Westplex is also entitled to credit for its proposal to install emergency generating equipment at both its studio and transmitter sites.

180. North Shore Broadcasting. Gerard Reilly, 51% partner of North Shore and its president is the general sales manager for the LPTV station licensed to Plainview, Long Island. This position is deemed to be a significant managerial position (Policy Statement, supra) and, inasmuch as Mr. Reilly has not stated that he will terminate his employment at the LPTV station if North

Shore's application is granted, North Shore must be assessed a diversification demerit even though the failure to divest may have been an unwitting oversight. A review of the record indicated that there is little likelihood that a concentration of control would result and consequently a slight diversification demerit will be assessed.

181. North Shore proposes the full-time integration of its three general partners. It is argued that, inasmuch as each of the partners has failed to promise to terminate his current employment in the event of a grant, the proposal should be discredited. However, a review of the record indicates that each of the principals do intend to devote full-time to their respective station involvements. A fair reading of the testimony leads the reader to the belief that the failure to promise to terminate present employment was unwitting. In any event it has not been shown that any of the

integration commitments could not be effectuated without terminating current employment.

182. North Shore's integration proposal is to be credited with 49% minority ownership and involvement because Mr. Mahan is a Black American and Mr. Yam is Chinese American. All of the partners have varying degrees of past broadcast experience with which the proposal is credited. No credit is given for local residence and no credit is given for civic participation. Mr. Mahan's civic participation occurred in the course of his employment. North Shore is also entitled to credit for its proposal to provide for auxiliary power at the studio and/or transmitter. It is not clear that North Shore has committed itself to install auxiliary generating equipment at both locations.

183. December Ventures. Neither December Ventures nor Byron Lewis, its sole

stockholder, has any interest in other broadcast stations. Mr. Lewis is chief executive officer and 51% owner of Uniworld which serves at times as a conventional advertising agency. Uniworld has placed $20 million in advertising in the last year and has bought time from radio and television stations whose signals cover the service area of December Venture's proposed station. Ownership of an advertising agency which places advertisements on stations in the service area of the proposed station is considered relevant to the issue of diversification. Barryville Broadcasting Company, 70 FCC 2d 1 (Rev. Bd. 1978); Mid-Florida Television Corporation, 69 FCC 2d 607 (Rev. Bd. 1978). See also Pittsfield Community Television Association, 94 FCC 2d 1320, 56 RR 2d 134 (Rev. Bd. 1983), Joseph Thomas Lamprecht, 57 RR 2d 1194 (Rev. Bd. 1984). Mr. Lewis does not propose to divest his interest in Uniworld. In light of this

December Ventures must be assessed a slight demerit under the diversification criterion.

184. Mr. Lewis proposes to work full-time as general manager at the proposed station. Mr. Lewis also will continue to work for Uniworld but proposes to reduce his time commitment to Uniworld to 20 hours per week. However, considering the nature of Uniworld's business Mr. Lewis believes that on occasion he might "be forced" to spend a lot more time at Uniworld than he might otherwise. Mr. Lewis candidly acknowledged that Uniworld operates in a "volatile" market. Uniworld's offices are located in mid-town Manhattan which is quite removed from Garden City considering New York City's traffic. In addition to his proposed 40 hours at the station and 20 hours at Uniworld, Mr. Lewis intends to continue to develop another venture of his regarding the Harlem district as a tourist and cultural center. He devotes to this endeavor 10

hours per week.

185. In light of Mr. Lewis' commitments to Uniworld and his Harlem district project it is not feasible that Mr. Lewis can effectuate his 40 hour a week commitment to December Ventures on a Monday through Friday, week in and week out basis. The rationale for the integration credit is that the integrated principal be readily available to the public. Although there is no denying that Mr. Lewis will put in the time he estimates, it is not credible that he can do so within the structure of a regular work week. It is deemed that Mr. Lewis is entitled to no more tha part-time credit for his integration proposal. See Caldwell Broadcasting Corp. 57 RR 2d 1039 (Rev. Bd. 1985).

186. Mr. Lewis' part-time integration proposal is enhanced by his past residence in the service area and his future residence in the community of license, his past civic

activities in the service area, and his status as a Black American. The proposal is also credited slightly with Mr. Lewis' familiarity with radio station production operations. December Ventures also receives credit for its proposal to install auxiliary power generators.

187. WINK Radio, Inc. Ronald and Winifred Graiff own jointly 77 shares of the common stock of ABC. This interest is minimal and has no meaningful impact on diversification of control of the mass media. Greater Wichita Telecasting, Inc. 90 FCC 2d 1046 (Rev. Bd. 1982). Ronald Graiff holds 233 shares of stock of LIN Broadcasting Corp. and options to purchase more. These holdings are not cognizable because they amount to less than one percent of LIN's outstanding stock. Additionally, Mr. Graiff holds certain positions with LIN and each of its subsidiaries. Pursuant to paragraph 39 of the Hearing Designation

Order he has committed to resign from all of his positions with LIN and each of its subsidiaries in the event of a grant. Accordingly, no diversification demerit will be assessed against WINK.

188. Both 50% shareholders of WINK have proposed to work full-time in management positions at the proposed station. Mrs. Graiff's 50% interest is enhanced by her female ownership, long term pst and future residence and civic participation. Mr. Graiff's 50% interest is enhanced by short term past and future residence and broadcast experience. WINK is also entitled to a credit for its proposal to install auxiliary power equipment at both its studio and transmitter sites.

189. Fonic Broadcasting Co. Neither Fonic nor any of its principals have any other media interests.

190. Fonic has proposed the full-time integration into management of its 52%

partner. Christina Mamos and its 24% partner, Teddy Savalas. Fonic's proposal is enhanced by 52% female ownership, 52% past residence civic participation and future residence and 76% past broadcast experience. Fonic is also entitled to credit for its proposal to install auxiliary power generating equipment at the studio and/or transmitter site even though such proposal was not made till the exhibit exchange. Metro Broadcasting, Inc., 57 RR 2d 440 (Rev. Bd. 1984). It is not clear that Fonic has committed itself to install generating equipment at both locations.

191. Mid-Island Broadcasting Co.

Mid-Island has no attributable media interests. James La Marca, Mid-Island's 29% shareholder, is the President and sole owner of La Marca Group which is a media time-buying service for advertising clients. Of its total advertising business 10% was from placing ads on broadcast stations in

the New York City metropolitan area overlaping Mid-Island's proposed service area. Mr. La Marca will retain his ownership and remain active in the La Marca Group. Consequently Mid-Island must be assessed a slight diversification demerit, because of the conflict of interest that would arise from La Marca Group's placement of advertisements within the service area of Mid-Island's proposed station. Mr. Robert S. Smith, Mid-Island's 20% owner, is a 25% stockholder of Drum Communications, Inc., licensee of Radio Station WNWZ(AM), Highland Springs, Virginia; however, he has committed to divest himself of this interest entirely in the event of a grant.

192. Mr. La Marca is proposed as the full-time station Vice President and Advertising and Promotion Director. He will supervise and execute the station's advertising and promotional efforts. Mr. La Marca intends to remain active in the La

Marca Group. He currently spends 20 to 30 hours at business devoted to the La Marca Group even though he has had managers running the company on a day-to-day basis for some time. Although he alleges that he will reduce this time commitment to 20 hours in the event of a grant, he has not indicated that he would do to effectuate the reduction in hours worked. Mr. La Marca also spends about 10 hours a week on entrepreneuricla activities. Again, although he alleges that he would surrender the more speculative entrepreneurial activities in the event of a grant, he has not indicated what time savings would result. All in all it appears that Mr. La Marca will continue to spend 30 to 40 hours a week working on above-named activities in addition to the 40 hours contemplated at the proposed station. His full-time commitment to Mid-Island on a day-to-day, week in and week out basis must be suspect in light of

the distances he would have to travel in the New York City area to effectuate his commitments to both the La Marca Group and the proposed station as well as the fact the time spent for La Marca would be time spent during the regular work week. Consequently, Mr. La Marca's integration proposal will be credited on no more than a part-time basis. See Caldwell Broadcasting Corp., supra.

193. Mr. Robert Smith is proposed as the full-time General Manager. Presently, Mr. Smith works 30 hours per week for the La Marca Group, but he intends to terminate this work in the event of a grant. Mr. Smith's proposal is enhanced by civic activities performed in the service area, and past broadcast experience.

194. Mr. Paris B. Swoopes is proposed as the full-time Sales Manager. He presently works four hours a day at his own business, which he began in 1961, and which provides diagnostic testing services and

procedural analysis to doctors. He also does the same kind of work (30 hours per week) as Director of Clinical Laboratory Services for A. Holly Patterson Home for Nassau County Aged and Infirm. Mr. Swoopes promises to reduce these work commitments but it is not clear how he can reduce the time and still maintain the business especially since the business requires him to sell to doctors every day. It does not seem probably that Mr. Swoopes' proposed work week of 40 hours at the station, even though he will curtail the hours presently spend at his laboratory work, can be effectuated. See Caldwell Broadcasting Co., supra. Mr. Swoopes integration proposal will be credited on a part-time basis. And as such it is enhanced by his minority status as a Black American, his past and future local residence, and his civic participation.

195. Mr. Lester Gaither is proposed as

the full-time Operations Manager to schedule programs and commercials. This does not appear to be a managerial position. Mr. Gaither will have no policy duties and will not supervise other employees. Consequently no credit may be given for his integration proposal.

196. Mrs. Kathleen S. Gayle is proposed as the full-time Office Manager. She is to oversee business functions and report to the General Manager. This activity seems to be clerical rather than a management level position. Integration credit for Mrs. Gayle's participation will not be given.

197. Mrs. Ruby H. Jones is proposed as the Community Services Director. Her 10% ownership and participation is credited with her minority status as a Black American, her female status, past residence in the service area and her civic activities.

198. Mr. Freeman McNeil is proposed as a full-time Sports Director. Mr. McNeil is

presently a professional football player. Considering the requirements of professional football, Mr. McNeil of course, will not be able to work at the station 40 hours per week during the football season. His integration proposal cannot be credited.

199. Mid-Island is credited with installing auxiliary power equipment, but it is not clear that Mid-Island has made this commitment for both studio and transmitter locations.

200. McComas Broadcasting Corporation. McComas' sole stockholder, Mr. Miro owns 8% of MCO Industries, Inc. whose subsidiary Cavallaro Broadcasting Corporation is the licensee of Station WOSO, San Juan, Puerto Rico. Mr. Miro's parents own 52% of MCO Industries and Mr. Miro's five siblings own the rest. San Juan, Puerto Rico is a great distance from the service area of the proposed station, nevertheless, Mr. Miro ownership in MCO Industries does constitute

a cognizable interest under the diversification criterion. A very slight diversification demerit will be assessed.

201. Mr. Miro is proposed for full-time integration. He resides presently in Garden City because he attends school there at Adelphi University. He promises to remain living in Garden City in the event of a grant. The other applicants argue that in light of Mr. Miro's student status doubt exists as to his true intentions. But this argument is speculation. There is no record evidence that Mr. Miro will be unable to carry out his commitment to work full-time at the station.

202. Mr. Miro's integration proposal is enhanced by his status as an Hispanic. Mr. Miro's birth certificate was not admitted into evidence and Mr. Miro was not cross-examined but in the circumstances there is no doubt that he is entitled to minority status credit. McComas proposes to

install auxiliary generators at its studio and transmitter sites.

Auxiliary Power

203. Jarad, Spectron, GCB, Westplex, December Ventures, WINK and McComas receive credit for installing auxiliary generating equipment at both studio and transmitter locations. North Shore, Fonic and Mid-Island receive a lesser preference for their respective commitments to install auxiliary generators at one of the locations.

Final Comparative Evaluation

204. Under the diversification criterion Westplex is charged with a very slight demerit for Mr. Hasting's managerial position at Station WTHE, Mineola, New York; North Shore is charged with a very slight demerit for Mr. Reilly's managerial position at the LPTV station at Plainview, Long

Island; December Ventures is charged with a slight demerit for Mr. Lewis' controlling interest in Uniworld; Mid-Island is charged with a slight demerit for Mr. La Marca's controlling interest in the La Marca Group and McComas is charged with a very slight demerit for his interest in MCO Industries.

205. Under the integration criterion Jarad receives 100% full-time integration credit enhanced by 100% past and future lo al residence, 100% civic participation, 100% minority ownership and 100% past broadcast experience. Spectron is entitled to 100% full-time integration enhanced by 100% past and future local residence, 100% civic participation, 100% minority and 100% female ownership and 100% limited broadcast experience. GCB will receive credit for 100% full-time integration enhanced by 46% past local residence (Betty Sutter, Mr. and Mrs. Bernstein) and 99% future local residence (Betty Sutter, The Bernsteins and

the Beatudiers), 16% civic participation, 53% minority ownership, 70.5% female ownership and 28.5% for past broadcast experience (John Betaudier and Edwin Bernstein). Westplex is credited with 100% full-time integration credit enhanced by 100% past and future local residence, 51% civic participation, 100% minority ownership, 49% female ownership and 100% extensive past broadcast experience. North Shore is credited with 100% full-time integration enhanced by 49% minority ownership and 100% past broadcast experience. North Shore is credited with 100% full-time integration enhanced by 49% minority ownership and 100% past broadcast experience. December Ventures is credited with 100% part-time integration credit enhanced by 100% past and future local residence, 100% civic participation, 100% minority ownership and 100% limited broadcast experience. WINK is credited with

100% full time integration enhanced by 100% past and future local residence, 50% civic participation, 50% female ownership and 50% past broadcast experience. Fonic is credited with 76% full-time integration enhanced by 52% female ownership, 52% past and future local residence, 52% civi participation and 76% past broadcast experience. Mid-Island is credited with 30% full-time (Smith and Jones) and 29% part-time (La Marca) integration enhanced by Smith's (20%) civic participation and past broadcast experience and Jones' (10%) past and future residence, minority and female ownership. McComas has 100% full-time integration enhanced by 100% minority ownership and future residence.

206. In evaluating the applicants on a quantitative basis, December Ventures (100% part-time), Fonic (76% full-time) and Mid-Island (30% full-time and 29% part-time), Fonic (76% full-time) and

Mid-Island (30% full-time and 29% part-time) drop out since each of the other applicants has a clear decisional quantitative difference in owner participation.13/ Of the remaining seven applications all received the same quantitative integration credit but differ qualitatively. A comparison of these remaining applicants shows that Spectron, Jarad and Westplex are qualitatively the strongest. As between Jarad and Spectron, Spectron has a 100% greater female ownership credit which outweighs Jarad's superior past broadcast experience credit; otherwise these two applicants are equal. As between Spectron and Westplex, Spectron has a 51% greater female ownership credit and a 49% greater civic participation credit, which credits

---

13/ The Review Board has found that a 12.5% difference reflects a "clear" quantitative difference which can not be overcome by qualitative attributes. New Continental Broadcasting Co., 88 FCC 2d 830 (Rev. Bd. 1981).

outweight Westplex's superior past broadcast experience. Additionally, Westplex is charged with a very slight diversification demerit. In sum, Spectron is the winner.

Accordingly, IT IS ORDERED that unless an appeal from this Initial Decision is taken to the Commission by a party or the Commission reviews this Initial Decision on its own motion in accordance with Section 1.276 of the Rules, the application of Spectron Broadcasting Corporation (File No. BPH-830516AK) for a construction permit to build and operate a new FM broadcast station at Garden City New York, IS GRANTED and the applications of Jarad Broadcasting Company, Inc. (File No. BPH-830325AC); Garden City Broadcasting, Inc. (File No. BPH-830713AQ); Westplex Broadcasting Company (File No. BPH-830714AE); North Shore Broadcasting (File No. BPH-830714AF); December Ventures, Inc. (File No. BPH-830714AG); WINK Radio, Inc. (File No. BPH-830714AH); Fonic

Broadcasting Co. (File No. BPH-830714AI); Mid-Island Broadcasting, Inc. (File No. BPH-830714AK0 and McComas Broadcasting Corporation (File No. BPH-830714BF) ARE DENIED.14/

John M. Frysiak
Administrative Law Judge
Federal Communications Commission

14/ In the event exceptions are not filed within 30 days after the release of this Initial Decision and the Commission does not review the case on its own motion, this Initial Decision shall become effective 50 days after its public release pursuant to Rule 1.276(d).